

# College of Charleston Student Handbook A Guide to Civil and Honorable Conduct 2015-2016

## COLLEGE *of* CHARLESTON

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### STUDENT AFFAIRS

The College of Charleston reserves the right to make changes in its policies, regulations, and procedures as printed herein through normal channels. The *Student Handbook* is produced by the Division of Student Affairs.

The College of Charleston is committed to providing leadership of equal employment and equal educational opportunities for all qualified persons regardless of **gender, sexual orientation, gender identity or expression, age, race, color, religion, national origin, veterans' status, genetic information, or disability**, or other legally-protected classifications. This effort is in compliance with all federal and state laws, including Titles VI and VII of the Civil Rights Act of 1964, Title IX of the Education Amendments of 1972, Section 503 and 504 of the Rehabilitation Act of 1973, the Age Discrimination Act of 1975, the Americans with Disabilities Act of 1990, and all other laws and regulations as they pertain to equal opportunity. For further information, contact the Office of Equal Opportunity Programs at 953-5758.

An electronic version of the *Student Handbook* is currently available on the World Wide Web. You can access it through the College of Charleston home page at <http://studentaffairs.cofc.edu/honor-system/studenthandbook/index.php>

# College of Charleston Student Handbook 2015-2016

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## A Guide to Civil and Honorable Conduct

### Letter from the President

August 15, 2015

Dear Student,

On behalf of the faculty and staff, it is my great pleasure to welcome you to the College of Charleston, one of the finest liberal arts and sciences institutions of higher learning in the country. In all things, we are guided by our motto, *Sapientia ipsa Libertas*, which means “Knowledge Itself Is Liberty.”

Your time spent at the College will be some of the most personally demanding and challenging years of your life. They also will be some of the most productive, rewarding, and enlightening. I encourage you to take advantage of what we offer and actively seek out programs and services to help you capitalize on your great potential. We have more than 200 student groups, a competitive intramural program, a strong fraternity and sorority life system, fantastic sports teams to cheer on, and fun events scheduled throughout the year.

Today, and in the years ahead, please know that our faculty and staff are here for you. Our student-focused culture is and always will be the hallmark of our unique institution. Your education, and the responsibility of preparing you for leadership roles in our global society, is our sole priority.

I look forward to seeing you around campus, and I wish you the best of luck as you pursue your educational goals!

Sincerely,

Glenn F. McConnell ‘69  
President

### Letter from the Executive Vice President for Student Affairs

August 15, 2015

Dear Student:

Welcome to our newest students and welcome back to our returning students! I hope this letter finds you ready for a productive new academic year. Your positive experience and success at the College are of the utmost importance to me.

This Handbook is designed to share with you many of the policies and procedures which apply to you as a student at CofC. The information provided is designed to guide your experience as a productive member of our academic community. We expect you to embrace and adhere to these guidelines and come forward with any suggestions for review or improvement. Please contact my office if you do have suggestions.

As a member of the College of Charleston community, you are also a member of the greater Charleston community. Whether this year finds you living on or off campus, you are also a resident of a local neighborhood. We have high expectations for you to be a productive contributor to our greater community and we take great interest in how you represent yourself and the College. As more of our students take rooms and apartments in the neighborhoods adjacent to campus or in more distant neighborhoods, and others interact frequently with local residents, problems between students and permanent residents are likely to surface. If there are difficulties, they are typically a direct result of poor communication between neighbors or insensitivities to neighborhood rules and expectations. To help prevent such problems, I encourage you to follow these suggestions:

1. Soon after moving in, take the time to meet your neighbors.
2. Since many local houses are very close to each other, be conscious of noise level, particularly during the week. Your neighbors may need to study or get to sleep in preparation for class or work the next day.
3. Tell your neighbors ahead of time if you are expecting more than just a few guests, let your guests know where they should properly park, and share neighborhood expectations that might apply to them as visitors.
4. Make sure that you and your landlord maintain the appearance of your house or apartment so that it meets neighborhood standards. Learn your rights and responsibilities as a tenant in South Carolina, for you and your landlord share many responsibilities.
5. Know and obey local and state laws and ordinances. No matter your level of awareness of these mandates, you will be expected to abide by them. You can find a list of key local ordinances on the webpages of Residence Life and Public Safety.

I thank you in advance for your cooperation. Please understand that to your neighbors, you are more than individuals; you are the College of Charleston. While it is my desire for you to have a great experience in college, please represent us well. If there are any ways in which I may be of assistance to you, please do not hesitate to contact me. Have a fantastic and rewarding year.

Sincerely,

Alicia Caudill, Ph.D.  
Executive Vice President for Student Affairs

### **Letter from the Honor Board**

August 15, 2015

Dear Students,

Welcome to the College of Charleston! We are excited that you chose the College of Charleston as the place to further your education.

As members of the Honor Board, we would like to remind you that the primary motive for attending college is to obtain an education that will aid you in your search of a successful future. The Honor Board is made up of students, just like you, with the same demands on our time, the same desire to have fun, and capable of making the same mistakes you make. We are not here just to adjudicate cases; we know that circumstances and poor judgment affect us all, and we will help you. If you transgress these rules, we will treat you with fairness, respect, and understanding, but we will not allow you to harm yourself or our community. With over 150 hours per week outside of the classroom of your own free time, we ask you to be responsible adults and to make sound decisions. We invite you to get to know the faculty and staff members that help make up this college community so that you not only learn from and with them, but feel able to seek their guidance and wisdom during trying times. Talk to them, they listen; ask them questions, they answer; give them respect, they deserve it; but most importantly, keep their trust.

Most of the academic cases that are presented before the Honor Board could have been avoided if the student had only communicated his or her troubles to the professor ahead of time. Faculty members are here to help you, do not be afraid of them. On the other hand, most of our non-academic cases occur because individuals do not know their tolerance for alcohol or understand that this campus and city take a serious stance against illegal substances. We understand that for many of the freshmen, this is your first year away from home and a time of experimentation. Be careful of your actions, because they have consequences. You are no longer in high school and will not be treated like you are. You will be held accountable for your actions like adults.

Whether you are beginning or continuing your studies here, we wish you a successful endeavor to gain knowledge, experience and friendships all surrounded by honest learning and civil behavior. Your time at the College of Charleston should be some of the best years of your lives; so remember to have fun, but responsibly.

Sincerely,  
The Honor Board

## **Students' Rights and Responsibilities**

### **1. Introduction**

The College of Charleston, one of the country's few colleges that can trace its origins back to the colonial period, was founded in 1770 and chartered in 1785. It is the oldest institution of higher education in South Carolina and the first municipal college in the United States. Today's campus is a modern facility which supports a community of students, faculty, professionals, and staff striving to fulfill the college's mission as a liberal arts institution in a complex and changing world.

The College of Charleston is a liberal arts and sciences institution, which includes a School of Education, Health, and Human Performance and a School of Business and Economics. Liberally educated men and women gain a broad acquaintance with the principal areas of human knowledge: the humanities (literature, languages, history, and philosophy), mathematics, logic, the fine arts, the natural sciences, and the social sciences. They have mastered the basic intellectual skills: how to reason logically, how to think critically, how to communicate effectively, and how to perceive the wide implications of what they have learned.

At the core of the College of Charleston community are individuals from diverse backgrounds whose lives are intertwined in support of the uplifting of the human condition through comprehensive studies. As with all communities, there is a moral code of ethical behavior that binds participants together, and a body of official rules and regulations that defines personal freedoms and responsibilities. The latter is codified in the College of Charleston Honor Code and Code of Conduct – our Honor System. The Honor System applies to all members of the college community and is intended to promote an atmosphere of trust and fairness in the classroom and in the conduct of daily campus life. The codes and the conduct process for reporting and hearing violations are addressed in greater detail later in this publication.

The purpose of this Handbook is to assist you in understanding your rights, freedoms, and responsibilities as a student. This Handbook is an official publication of the College. As a student, you will be held accountable for its contents. This means that while officially enrolled at the College you are responsible for abiding by its rules which are intended to facilitate and sustain, in an orderly fashion, the on-going business of the College. For its part, the College has committed itself to your holistic development and to the support of those regulations designed to enhance and protect your individual rights.

The College of Charleston has for many years maintained a stated, formal policy prohibiting discrimination or harassment on our campus. This prohibition applies irrespective of race, age, religion, gender, gender identity or expression, sexual orientation, national origin, veterans' status, genetic information or disability. Quite simply, we cannot satisfactorily co-exist and meet the mission of the College to provide high-quality education in the face of either discrimination or harassment. Such actions are wholly antithetical to the precepts of higher education and, in particular, the College of Charleston. An integral part of education is the exposure to different views and different cultures. We must not only accommodate this diversity, but, if we are to maximize the educational opportunities presented at this institution, we must embrace this diversity as well. The ability to recognize differences and see linkages between and among these differences lies at the core of a liberal arts education, to which this college is dedicated. We must, therefore, exercise true tolerance and seek an understanding of others, for in an awareness of differing traditions and views, we grow as individuals. Further, we must respect the intrinsic worth of individuality and work together continuously to create and nurture an environment that stimulates intellectual and personal growth.

A second fundamental value inherent in a liberal arts education is that of intellectual freedom and freedom of expression. In educational institutions, this value is firmly entrenched in the doctrine of academic freedom. In our nation, this fundamental value is enshrined in the First Amendment of the U.S. Constitution. As with other values, however, it is important that we live

by these concepts and not simply be satisfied with mere rhetoric. Our institution must always serve as a dynamic marketplace of ideas if we are to maximize our potential both as individuals and as an institution. We must recognize, however, that there will be times when the fundamental values of freedom from discrimination or harassment will intersect with those of freedom of expression. The dilemma for each of us is to reconcile such conflicts in ways that do the least possible damage to either of these fundamental values. It is important for us to remember that freedom of expression in no way assures that every expression has merit. As G.K. Chesterton once noted, 'To have the right to do a thing is not at all the same as to be right in doing it.' It is both acceptable and, on occasion, required that we affirm the right to freedom of expression, while at the same time stating our unequivocal disapproval of the contents of that expression.

Ultimately, each of us in this college community must exercise our freedoms in a responsible and careful manner, just as we must analyze what we are hearing in a careful manner and critical way. This institution's potential is limitless if we engender and maintain an atmosphere of respect for the individual, a tolerance and sensitivity towards different cultures and differing points of view, and a support for the rights of others to freely express their opinions. You are urged to adopt or reaffirm these fundamental values as the cornerstone of the College of Charleston.

## **2. The Honor System of the College of Charleston**

### **Preamble**

The Honor System of the College of Charleston is intended to promote and protect an atmosphere of trust and fairness in the classroom and in the conduct of daily life. The Honor System is composed of two major components: The Honor Code and the Code of Conduct. Specific policies fall under each major component. Students and student organizations at the College of Charleston are bound by honor and by their enrollment at the College to abide by the Honor and Conduct codes and are required to report violations. Faculty and staff members are strongly encouraged to report violations of the Honor Code or Code of Conduct.

As members of the college community, students are expected to evidence a high standard of personal conduct and to respect the rights of other students, faculty, staff members, community neighbors, and visitors on campus. Students are also expected to adhere to all federal, state, and local laws.

Alleged violations of the Honor Code or Code of Conduct which are not admitted by the student will be heard by a disciplinary panel or an Honor Board, bodies composed of students, faculty, and staff members or an administrator.

A student who admits to a violation of the Honor Code or Code of Conduct will have the violation adjudicated by the reporting faculty member(s), a disciplinary panel, an Honor Board or an administrator.

## **3. Definitions**

1. The term "College" means College of Charleston.

2. The term "student" means an individual:

2.1. Who has received an offer of admission to the College, or who has been accepted for enrollment in one or more classes offered by the College of Charleston, and

2.2. Who has either:

a) Registered for one or more classes or academic instruction to be given at the College (including those educational institutions operating under an academic agreement with the College as part of a College-approved program of study),

b) Whose registration relates to one or more classes scheduled for the current or following semester (6-month period).

2.3. Who withdraws or attempts to withdraw after allegedly violating a code or policy while enrolled.

**2.4.** Student status continues until it is terminated upon the occurrence of one or more of the following events:

- a) Graduation (without any indication of intent to pursue post graduate activities at the College during the following or the immediately following semester);
- b) Voluntary withdrawal of the student from all courses of academic instruction;
- c) Involuntary dismissal (or other withdrawal of the student initiated by the College) from all programs and activities of the College, and the exhaustion of all internal grievance procedures to redress the dismissal or withdrawal (if applicable);
- d) Unauthorized absence from the College for one or more semesters, as determined appropriate under the circumstances by Academic Affairs; or
- e) Cancellation of all classes for which the student is currently registered or for which the student is seeking registration.

**3.** The term “Honor System” means the Honor Code and the Student Code of Conduct (which includes but is not limited to the Alcohol, Drug, and Sexual Misconduct policies).

**4.** The term “Codes” means the Honor Code and the Student Code of Conduct.

**5.** The term “College official” includes any person employed by the College and any person serving the College in an official capacity.

**6.** The term “member of the College community” includes any person who is a student, College official, trustee, or any other person serving the College in an official capacity. The Executive Vice President for Student Affairs shall determine a person’s status in a particular situation.

**7.** The term “College premises” includes all land, buildings, facilities, and other property in the possession of or owned, used, or controlled by the College.

**8.** The term “organization” means any registered student organization.

**9.** The terms “shall” and “will” are used in the imperative sense.

**10.** The term “may” is used in the permissive sense.

**11.** The term “working day” means a day when the College is open for normal business, regardless of whether classes are in session (e.g., the day preceding Thanksgiving). In determining any deadlines as set forth in the codes, references to a number of “days” prior to or after occurrence of an event shall not include the day of the event.

**12.** The term “day” means a calendar day.

**13.** The term “Complainant” means any person filing a complaint of suspected misconduct under these codes.

**14.** The term “Respondent” means a student or organization against whom a complaint has been filed under these codes.

**15.** The term “health” means physical or mental well-being.

**16.** For the purposes of the Honor System, the term “residence hall” means any hall, house or any other living unit owned or leased by the College for the principal purpose of providing student housing.

**17.** For the purposes of the Honor System, the term “possession” means having actual knowledge of a substance or property and/or being in such close proximity to the substance or property that it is a reasonable presumption that one had knowledge of the substance or property. For example, 1) those in a room where a controlled or prohibited substance is present would be presumed to be in possession of the substance absent compelling evidence to the contrary or 2) a bong found on a desk during a health and safety inspection would be presumed to be the possession of the student to whom the desk belongs absent compelling evidence to the contrary.



#### **4. Honor System Authority**

The Board of Trustees and the President of the College of Charleston have delegated authority for student discipline to the Executive Vice President for Student Affairs. Discipline authority may be delegated to College officials and committees as set forth in these Codes, in accordance with other College policies, rules, or regulations, and as deemed appropriate by the Executive Vice President for Student Affairs. The Dean of Students is the person designated by the President and the Executive Vice President for Student Affairs to be responsible for the administration of the Codes and other related student policies. The Dean of Students shall develop policies for the administration of the Honor System and procedural rules for the conduct of Honor System hearings that are not inconsistent with the provisions of the Honor System or other College policies. The final authority over all decisions made under the Honor System rests with the Executive Vice President for Student Affairs.

#### **5. Violations Which Also Violate Municipal, State, or Federal Law**

Students may be accountable to both outside authorities and to the College for acts which constitute violations of law and of the Honor System and other campus regulations. Disciplinary action at the College will normally proceed during the pendency of criminal or civil proceedings and will not be subject to challenge on the ground that criminal or civil charges involving the same incident have been dismissed, reduced or resolved in favor or against the student. Determinations made or sanctions imposed under a conduct process shall not be subject to change because charges arising out of the same facts giving rise to violation of College rules were dismissed, reduced or resolved in favor of or against the student.

#### **6. Other Official Intervention/Resolution**

Letters of no contact, cease and desist letters, facilitated discussions, mediation agreements, mandatory move notices within our residential system, and other written forms of intervention may be initiated after determination by officials in Student Affairs that such action is appropriate and warranted. The student(s) will be given the opportunity to appear personally before an official of Student Affairs to contest the determination and discuss the original circumstances that gave rise to the no contact or other intervention order. Intervention letters do not constitute a formal disciplinary charge or sanction. However, formal disciplinary proceedings could be initiated if any conditions outlined within the correspondence are violated and reported.

#### **7. Jurisdiction of Residence Life and Housing Administration and the Office of the Dean of Students for Incidents which Take Place in College Residence Halls/Houses**

**1. Residence Life and Housing Administration:** The Departments of Residence Life and Housing Administration will review and act on alleged violations of the Residence Hall Contract (which may also constitute violations of the Student Code of Conduct) that are NOT likely to lead to removal from the residential system AND/OR any form of suspension or expulsion from the College. Such offenses will be resolved under policies as stated by Residence Life and Housing Administration.

**2. Alleged violations of the Residence Hall Contract unrelated to violations of the Student Code of Conduct** shall be subject to administrative action by the Departments of Residence Life and Housing Administration. For more information on regulations and policies concerning residence halls, please consult the *Guide to Residence Living* and the Residence Hall Contract.

**3. Office of the Dean of Students:** Alleged violations likely to lead to removal from the residential system AND any form of suspension or expulsion from the College shall be subject to action by the Dean of Students. This includes, but is not limited to, all drug-related and multiple alcohol violations, forgery, weapons, arson, sexual misconduct, physical assault and serious vandalism. Identifying violations, notifying the respondent and complainant and coordinating hearings will be conducted in accordance with procedures contained within the *Student Handbook*. The Dean of Students or his/her designee will contact student(s), interview and, if appropriate, deliver a charge letter and announce the resolution timeline.

#### **8. Off-Campus Jurisdiction of the College of Charleston**

**1. Student Affairs officials** shall determine, on a case-by-case basis, whether an incident that occurs off campus adversely affects the College's mission or members of the College community in pursuit of their institutional and educational goals and thus falls within the scope of the Honor System. As an urban campus situated in the heart of Charleston, clearly, good

relations with the City of Charleston and our Charleston neighbors are essential to the overall mission of the College. Accordingly, Student Affairs shall have discretion to exercise jurisdiction over conduct which occurs off-campus.

2. In determining whether or not to exercise off-campus jurisdiction in such cases, the Student Affairs officials will consider the number of complaints, the seriousness of the alleged offense, whether drugs and/or alcohol are involved, the risk of harm involved, whether the alleged victim(s) are members of the campus community or surrounding neighborhoods and/or whether the off-campus conduct is part of a series of actions which occurred both on and off campus.

## 9. The Honor Code – Academic Integrity

The Honor Code of the College of Charleston specifically forbids:

**1. Lying:** knowingly furnishing false information, orally or in writing, including but not limited to deceit or efforts to deceive relating to academic work, to information legitimately sought by an official or employee of the College, and to testimony before individuals authorized to inquire or investigate conduct; lying also includes the fraudulent use of identification cards and fabrication of data, endnotes, footnotes and other information related to academic work.

**2. Cheating:** the actual giving or receiving of unauthorized, dishonest assistance that might give one student an unfair advantage over another in the performance of any assigned, graded academic work, inside or outside of the classroom, and by any means whatsoever, including but not limited to fraud, duress, deception, theft, talking, making signs, gestures, copying, electronic messaging, photography, unauthorized reuse of previously graded work, unauthorized dual submission, unauthorized collaboration and unauthorized use or possession of study aids, memoranda, books, data, or other information. The term cheating includes engaging in any behavior related to graded academic work specifically prohibited by an instructor in the course syllabus or class discussion.

**3. Attempted cheating:** a willful act designed to accomplish cheating, but falling short of that goal.

**4. Stealing:** the unauthorized taking or appropriating of property from the College or from another member of the college community. Note also that stealing includes unauthorized copying of and unauthorized access to computer software.

**5. Attempted stealing:** a willful act designed to accomplish stealing, but falling short of that goal.

### 6. Plagiarism:

**6.1.** The verbatim repetition, without acknowledgement, of the writings of another author. All significant phrases, clauses, or passages, taken directly from source material must be enclosed in quotation marks and acknowledged in the text itself and/or in footnotes/endnotes.

**6.2.** Borrowing without acknowledging the source.

**6.3.** Paraphrasing the thoughts of another writer without acknowledgement.

**6.4.** Allowing any other person or organization to prepare work which one then submits as his/her own.

## 7. Penalties (Sanctions) for Violations of the Honor Code

**7.1. XXF – Transcript Notation** (See Appendix A for full description.)

- A. The grade of XXF means failure due to academic dishonesty. If a student is found responsible for an act of “serious” academic dishonesty, the Registrar’s Office will insert the XXF grade for that course after notice from the Dean of Students. The XXF remains on the student’s official transcript for a minimum of 2 years. After 2 years, the student can petition the Honor Board for removal of the XX. The F grade will remain on the transcript.

- B.** Instructors, with assistance from the Dean of Students if requested, will assess whether the behavior of the student falls into one of three classes:

**Class 1** – act involves significant premeditation; conspiracy and/or intent to deceive, e.g., purchasing a research paper.

**Penalties:** XXF and either suspension or expulsion assigned if student found responsible by Honor Board.

**Class 2** – act involves deliberate failure to comply with assignment directions, some conspiracy and/or intent to deceive, e.g., use of the Internet when prohibited, some fabricated endnotes or data, copying several answers from another student's test.

**Penalties:** XXF and other sanctions assigned if student found responsible by Honor Board.

**Class 3** – act mostly due to ignorance, confusion and/or poor communication between instructor and class, e.g., unintentional violation of the class rules on collaboration or the rules of citation.

**Penalties:** The instructor sets the penalty and discusses it with the student. Both the instructor and student sign a form. The form is forwarded to the Dean of Students. See "Class 3 Report Form" on the Honor System website.

**7.2.** Other penalties for violations of the Honor Code range up to and include expulsion from the College. Other penalties may be combined with the XXF. Attempted cheating, attempted stealing, and the knowing possession of stolen property shall be subject to the same punishment as the other offenses. Because the potential penalties for an Honor Code violation are extremely serious, all students should be thoroughly familiar with the above definitions and be guided by them.

## **10. Student Code of Conduct**

The following Student Code of Conduct is in force while on College premises and/or at College-sponsored or supervised activities. Officials in Student Affairs shall determine, on a case-by-case basis, whether an incident that occurs off campus jeopardizes the College or members of the college community in pursuit of their institutional and educational goals and thus falls within the scope of the Honor System. (See also section on "Off-Campus Jurisdiction.")

The Student Code of Conduct of the College of Charleston specifically forbids:

**1.** Acts of dishonesty, including but not limited to the following:

**1.1.** Furnishing false information to any college official, faculty member, or office.

**1.2.** Forgery, alteration, misuse or improper possession of any college or non-college document, record, or instrument of identification.

**1.3.** Tampering with the election of any college-recognized student organization.

**1.4.** Impersonation of another person, including a member of the college community.

**2.** Disruption or obstruction of teaching, studying, research, administration, disciplinary proceedings, living/learning environment or other college activities, including its public service functions on or off Campus, or other authorized non-college activities, when the act occurs on college premises.

**3.** Physical abuse, defined as an act or acts which include physical contact and contact which causes bodily harm or injury or causes physical pain.

**4.** Verbal abuse, defined as use of derogatory terms, foul or demeaning language, which may be accompanied by a hostile tone or intense volume of delivery.

**5.** Threat, defined as expression of intention to cause injury, harm or damage.

- 6. Intimidation**, defined as to place another person in reasonable fear of bodily harm and/or emotional distress through the use of threatening words or other conduct, or both, but without displaying a weapon or subjecting the victim to physical attack.
- 7. Harassment**, defined as intent to intimidate, annoy or alarm another person repeatedly. Person subjects such other person to physical contact, or attempts or threatens to do the same; or follows a person in or about a public place or places; or engages in a course of conduct or repeatedly commits acts which alarm or seriously annoy such other person and which serve no legitimate purpose.
- 8. Bullying**, defined as repeated and/or severe aggressive behavior likely to intimidate or intentionally hurt or diminish another person physically or mentally (that is not speech or conduct otherwise protected by the First Amendment).
- 9. Stalking**, defined as engaging in a course of conduct directed at a specific person that would cause a reasonable person to a) fear for their safety or the safety of others; or b) suffer substantial emotional distress.
- 10. Coercion**, defined as the use of explicit or implicit force, threats, unusual pressure or intimidation to make somebody do something against his or her will.
- 11. Conduct which threatens or endangers the health or safety of any person(s).**
- 12. Sexual Misconduct** (See Student Sexual Misconduct Policy below which covers sexual harassment and forms of sexual violence. This policy contains separate procedures).
- 13. Attempted or actual theft of and/or damage**, (including, but not limited to any form of vandalism or arson) to property of the College or property of a member of the College community or other personal or public property, on or off campus; and/or knowingly possessing stolen property or unauthorized possession of College property or property of a member of the College community, on or off campus.
- 14. Hazing**, defined as an act which endangers the mental or physical health or safety of a student, which subjects a student to harassment, ridicule, intimidation, physical exhaustion, abuse, or mental distress, or which destroys or removes public or private property, for the purpose of initiation, admission into, affiliation with, or as a condition for continued membership in a group or organization. The express or implied consent of the victim will not be a defense. Apathy and/or acquiescence in the presence of hazing are not neutral acts; they are violations of this rule.
- 15. Failure to comply with directions of College officials or law enforcement officers acting in performance of their duties and/or failure to identify oneself to these persons when requested to do so.**
- 16. Unauthorized possession, duplication, or use of keys to any College premises, trespassing or unauthorized entry to or use of College premises.**
- 17. Violation of published college policies, rules, and/or regulations published in hard copy or available electronically on the College of Charleston website.**
- 18. Alleged and/or actual violation of federal, state, or local law.**
- 19. Use, possession, manufacturing, intent to distribute, distribution, dispensation, purchase, attempted purchase of marijuana, cocaine, narcotics or other illegal drugs or controlled substances, including prescription medications, except as expressly permitted by law.** This includes the possession or sale of drug paraphernalia (such as scales, bongs, water pipes, glass pipes, cocaine spoons). (For more information about violations and our responses to drug-related activity see Drug Policy below.)
- 20. Use, possession, manufacturing or distribution of alcoholic beverages, except as expressly permitted by the law and College regulations, and/or public intoxication.** Alcoholic beverages may not, in any circumstance, be used by, possessed by or distributed to any person under twenty-one (21) years of age. (For more information about our responses to alcohol-related activity see Alcohol Policies below, *The Guide to Residence Living* and *The Compass*.)

- 21.** Illegal or unauthorized possession of firearms, Tasers, explosives, other weapons, or dangerous chemicals on College premises or use of any item, even if legally possessed, in a manner that harms, threatens or causes fear to others.
- 22.** Participating in a campus demonstration or off-campus demonstration, riot or activity that disrupts the normal operations of the College and/or infringes on the rights of other members of the College community; leading or inciting others to disrupt scheduled and/or normal activities within any campus building or area.
- 23.** Obstruction of the free flow of pedestrian or vehicular traffic on College premises or at College-sponsored or supervised functions.
- 24.** Conduct that is disorderly, lewd, or indecent; breach of peace; or aiding, abetting, or procuring another person to breach the peace on College premises, surrounding areas, or at functions sponsored by, or participated in, by the College.
- 25.** Facilitating and/or accepting improper behavior: Facilitating and/or accepting improper behavior are defined as aiding and/or choosing not to confront a person violating the Honor Code, Code of Conduct or other regulation, choosing not to leave such a situation, and/or choosing not to tell a College staff member about the violation.
- 26.** Use of any technology to create, display or distribute an audio, video, digital file, picture or film of another individual without that person's knowledge and consent while the person is in a place where he or she would have reasonable expectation of privacy.
- 27.** Theft or other abuse of the campus network, computers, or computer time, including but not limited to:
- 27.1.** Unauthorized entry into a file to use, read, or change the contents or for any other purpose.
  - 27.2.** Unauthorized transfer of a file.
  - 27.3.** Unauthorized use of another individual's identification and/or password.
  - 27.4.** Use of computing facilities and resources to send obscene, threatening or abusive messages.
  - 27.5.** Use of computers or computing facilities and resources to interfere with the work of another student, faculty member, or college official.
  - 27.6.** Use of computing facilities and resources in violation of copyright laws. (Also see College Policy on Peer-to-Peer File Sharing.)
  - 27.7.** Any violation of the College's information technology policies.
- 28.** Abuse of any of the College's campus conduct procedures, including but not limited to:
- 28.1.** Failure to obey the notice of a conduct body or college official to appear for a meeting or hearing as part of a conduct process.
  - 28.2.** Falsification, distortion, or misrepresentation of information before a conduct body or official.
  - 28.3.** Disruption or interference with the orderly conduct of a conduct proceeding.
  - 28.4.** Institution of a conduct proceeding knowingly without cause.
  - 28.5.** Attempting to discourage an individual's proper participation in, or use of, conduct procedures.

**28.6.** Attempting to influence the impartiality of a member of a conduct body or official prior to, and/or during the course of, the conduct proceeding.

**28.7.** Harassment (verbal or physical) and/or intimidation of a conduct official or member of a conduct body prior to, during, and/or after a conduct proceeding.

**28.8.** Failure to comply with the sanction(s) imposed under the Honor System.

**28.9.** Influencing or attempting to influence another person to commit an abuse of conduct procedures.

**28. 10.** Retaliating against any student or other person for filing a complaint or participating in an investigation in good faith. Acts of retaliation include, but are not limited to, verbal abuse, intimidation, threats, harassment and other adverse action against any such complainant, witness, third party or investigator.

## **11. Future Revisions**

The College of Charleston reserves the right to update all policies contained within the *Student Handbook*. Students are responsible for being aware of changes as they are disseminated to the college community.

## **12. Student Sexual Misconduct Policy**

### **STUDENT SEXUAL MISCONDUCT POLICY<sup>1</sup>**

#### **1. INTRODUCTION**

##### **1.1 Purpose of Policy**

The purpose of this Policy is to provide Students and other members of the College Community a description of how the College will respond when a Student is accused of Sexual Misconduct; the procedures that will be followed to investigate and determine culpability; the consequences of such misconduct and the sanctions that will be imposed if there is a finding of culpability; protections that will be afforded to the alleged victim and to the accused; the relationship of this Policy with all other College policies dealing with a similar subject matter; and the demonstration that the College's sexual misconduct programs are, foremost, aimed at prevention and also at enhancing the awareness of resources for and awareness of sexual misconduct.

##### **1.2 Policy Statement**

It is the Policy of the College of Charleston to respect the rights and the dignity of the individual. Sexual Misconduct, including sexual violence, violates this principle and will not be tolerated. It is a violation of this Policy to discriminate against, harass or abuse any Student or applicant for admission to the College based on gender, sexual orientation, gender identity or expression. The College is committed to taking immediate, equitable and effective steps to respond to Sexual Misconduct, to prevent its recurrence, and to address its effects. The Decisional Authority is required to consider suspending or expelling any Student found culpable for Sexual Misconduct. (See section 13.0)

##### **1.3. Application**

This Policy applies to all enrolled Students of the College of Charleston and to applicants who have received an offer of admission to the College. We encourage members of the campus community who experience any form of sexual

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<sup>1</sup> This Policy may also be referred to as the College's *Sexual Assault Policy*, as required by S.C. Code Ann. §59-105-40.

misconduct, as defined in section 3.0 below, to seek help and to report the misconduct. On- and off-campus resources are outlined in sections 3.2 and 3.3 below.

Students are encouraged to report sexual misconduct whether the sexual misconduct occurs on- or off-campus. Resources are available for students no matter where the misconduct occurs. The College of Charleston will take appropriate steps to respond to complaints of sexual misconduct. If alleged misconduct occurs off-campus, the College will take the necessary steps to address any continuing effects of off-campus sexual harassment in the educational setting.

#### **1.4 Effect on other Policies**

This Policy is intended to and shall be read in a manner that is consistent with the College Policy entitled: **PROHIBITION OF DISCRIMINATION AND HARASSMENT, INCLUDING SEXUAL HARASSMENT AND ABUSE.**

## **2. DEFINITIONS**

The definitions contained in this Policy will be interpreted and applied by the College in a manner that is consistent with applicable law, professional usage, and conventional understanding within the community. In the event of any alleged conflict in meaning, statutory and legal interpretations shall prevail and be deemed controlling.

**2.1 “SEXUAL MISCONDUCT”** – shall mean sexual violence and all forms of sexual discrimination, harassment and abuse, as defined in Section 5.0 of the College’s Policy on the *Prohibition of Discrimination and Harassment, Including Sexual Harassment and Abuse*:

Sexual/gender harassment includes unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature when

- (1) submission to such conduct is made either explicitly or implicitly a term or condition of an individual's access to an educational benefit or of an individual's employment at the College;
- (2) submission to or rejection of such conduct by an individual is used as the basis for academic decisions or decisions concerning educational benefits or employment decisions affecting such individual; or
- (3) such conduct has the purpose or effect of unreasonably interfering with an individual's work or academic performance or other educational benefit or creating an intimidating, hostile, or offensive working, learning or living environment. Additionally, sexual harassment also includes conduct (as described in this paragraph) that is directed at an employee or Student because of his or her sexual orientation or gender identity or expression.

**A single incident of sexual assault may be sufficiently severe or pervasive to interfere unreasonably with one’s educational environment and therefore create a hostile environment.**

Sexually-related conduct creates a hostile environment if it is sufficiently severe or pervasive to interfere unreasonably with academic, other educational, or employment performance or participation in a College activity or living environment.

Sexual/gender harassment includes in-person acts and/or behavior via computer, telephone or other electronic medium, including text messages, emails, social media and other forms of electronic communication.

**For scenarios of sexual misconduct, please see Appendix I.**

Sexual misconduct can take various forms. They include, but are not limited to the following items:

#### **A. Verbal.**

Unwelcome sexual advances or requests for sexual favors based upon gender, sexual orientation, gender identity or gender expression; Verbal harassment, such as sexual innuendoes, suggestive comments, jokes of a sexual nature, sexual propositions or threats; epithets; slurs; negative stereotyping (including “jokes”); Repeated, unwelcome requests for social engagements; Questions or comments about sexual behavior or preference;

**B. Non-verbal.**

Display or sexually suggestive objects or pictures, leering, whistling, obscene gestures; written or graphic material (including communications via computers, cell phones, etc.) that defames or shows hostility or aversion toward an individual or group because of gender, sexual orientation, gender identity, or gender expression.

**C. Acts of sexually-based intimidation.**

To place another person in reasonable fear of bodily harm and/or emotional distress through the use of threatening words, repeated and/or severe aggressive behavior or other conduct or both, but without displaying a weapon or subjecting the person to physical attack

**D. Acts of sexually-based coercion.**

Use of explicit or implicit force, threats, unusual pressure or intimidation to make somebody do something against his or her will.

**E. Acts of sexually-based threats.**

An expression of intention to inflict injury, harm or damage

**F. Stalking.**

Engaging in a course of conduct directed at a specific person that would cause a reasonable person i) fear for their safety or the safety of others; or ii) suffer substantial emotional distress.

**G. Non-consensual sexual contact.**

Any intentional sexual physical contact, with any object, including touching, pinching or brushing the body; that is without consent and/or by force.

**H. Acts of physical aggression, including non-consensual sexual intercourse.**

“Non-consensual sexual intercourse” occurs when a student engages in sexual intercourse, however slight, with another person without that person's consent. “Sexual intercourse” includes, but is not limited to, vaginal or anal penetration by a penis, object, tongue or finger. It also includes oral copulation (mouth to genital contact or genital to mouth contact). Non-consensual sexual intercourse includes the sexual conduct known as sexual assault or rape. Either males or females can be aggressors in sexual assault, and sexual assault can occur in same-sex relationships.<sup>2</sup> For more information, see discussion on consent in section 2.8.

**I. Sexual exploitation.**

Sexual exploitation is taking sexual advantage of another for one's benefit.

**J. Age.**

Anyone under 16 years of age is not legally capable of giving consent for any sexual contact.

**K. Relationship/Dating Violence.**

The terms relationship and dating violence mean violence is committed by a person –

- i) Who is or has been in a social relationship of a romantic or intimate nature with the complainant; and

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<sup>2</sup> Kenyon College's Sexual Misconduct Policy



- ii) Where the existence of such a relationship shall be determined based on a consideration of the following factors: the length of the relationship; the type of relationship; and the frequency of interaction between the persons involved in the relationship.

#### **L. Domestic Violence.**

The term domestic violence includes felony or misdemeanor crimes of violence committed by a current or former spouse of the complainant, by a person with whom the complainant shares a child in common, by a person who is cohabitating with or has cohabitated with the complainant as a spouse, by a person similarly situated to a spouse of the complainant under the domestic or family violence laws of the jurisdiction receiving grant monies, or by any other person against an adult or youth complainant who is protected from that person's acts under the domestic or family violence laws of the jurisdiction.

**2.2 "CAMPUS COMMUNITY" or "COLLEGE COMMUNITY"** – shall mean the Students, faculty, and staff of the College, whether part-time, full time or temporary, the College Board of Trustees, visiting faculty, contractors and consultants performing work or performing services on College owned or leased property and all other invitees of the College.

**2.3 "CAMPUS SECURITY AUTHORITY"** – shall mean:

**A.** The campus Office of Public Safety;

**B.** Any individual or individuals who have responsibility for campus security but who are not employed by the Office of Public Safety such as an individual who is responsible for monitoring the various entrances to College facilities.

**C.** Any individual or office specified in the College's statement of campus security policy as an individual or organization to which Students and employees should report criminal offenses. In its current *Annual Security Report* the College has specifically designated the following individuals as examples of Campus Security Authorities: Executive Vice President for Student Affairs, Dean of Students, Director of Fraternity and Sorority Life, Director of Residence Life, Director of Student Leadership Center, Conduct Coordinator for Residence Life, Director of Student Life, Counseling Peer Education Director, Associate Director of Athletics, Assistant Provost for International Education, Director of Multicultural Center, and Housing Area Coordinators.

**D.** An employee of the College who has significant responsibility for Student and campus activities, including, but not limited to, Student housing, Student discipline, and campus conduct proceedings. If such an official is a pastoral or professional counselor, the official is not considered a campus security authority when acting as a pastoral or professional counselor.

**2.4 "CHILD ABUSE OR NEGLECT" or "HARM"** – shall mean, with respect to a person under 16 years of age, conduct occurring when any person responsible for the child's welfare, including, the parent, guardian, or other person:

**A.** Inflicts or allows to be inflicted upon the child physical or mental injury or engages in acts or omissions which present a substantial risk of physical or mental injury to the child, including injuries sustained as a result of excessive corporal punishment, but excluding corporal punishment or physical discipline which:

- i) Is administered by a parent or person in loco parentis;
- ii) Is perpetrated for the sole purpose of restraining or correcting the child;
- iii) Is reasonable in manner and moderate in degree;
- iv) Has not brought about permanent or lasting damage to the child; and
- v) Is not reckless or grossly negligent behavior by the parents.

**B.** Commits or allows to be committed against the child a sexual offense as defined by the laws the state of South Carolina or engages in acts or omissions that present a substantial risk that a sexual offense as defined in the laws of this State would be committed against the child;

**C.** Fails to supply the child with adequate food, clothing, shelter, or education as required under South Carolina Code Ann., Article 1 of Chapter 65 of Title 59, supervision appropriate to the child's age and development, or health care though financially able to do so or offered financial or other reasonable means to do so, and the failure to do so has caused or presents a substantial risk of causing physical or mental injury. However, a child's absences from school may not be considered abuse or neglect unless the school has made efforts to bring about the child's attendance, and those efforts were unsuccessful because of the parents' refusal to cooperate. For the purpose of this chapter "adequate health care" includes any medical or nonmedical remedial health care permitted or authorized under state law;

**D.** Abandons the child;

**E.** Encourages, condones, or approves the commission of delinquent acts by the child and the commission of the acts are shown to be the result of the encouragement, condonation, or approval; or

**F.** Has committed abuse or neglect as described in subsections (a) through (e) such that a child who subsequently becomes part of the person's household is at substantial risk of one of those forms of abuse or neglect.

**2.5 "COLLEGE"** – shall mean the College of Charleston.

**2.6 "COLLEGE PROPERTY"** – shall mean real property that is owned or leased by the College.

**2.7 "COMPLAINANT"** – shall mean a person who makes a Complaint, whether written or verbal, of facts that, if true, would constitute a violation of this Policy.

**2.8 "CONSENT"** – shall mean the presence of explicit voluntary and knowing verbal consent or overt action clearly expressing consent. Such signals of consent must be mutual and ongoing. Silence, in and of itself, does not convey consent. "Consent can be given by words or actions, as long as those words or actions create mutually understandable clear permission regarding willingness to engage in (and the conditions of) sexual activity (ATIXA)."

Effective consent is also absent when the activity in question exceeds the scope of effective consent previously given. The fact of a previous relationship or prior consent does not imply current consent.

Consent obtained through fraud or force, whether that force is physical or through threats, intimidation or coercion, is not regarded as effective consent.

It is the responsibility of the initiator (the person who wants to engage in the specific sexual activity) to make sure that s/he has consent from the other person. Use of alcohol or drugs by the respondent shall not diminish one's responsibility to obtain consent.

If the victim is under the age of consent as defined by state law or is declared unable to give consent due to a mental or physical condition, and the respondent either knew that fact or reasonably should have known that fact, the respondent will likely be found responsible for Sexual Misconduct. The legal age of consent in South Carolina is 16 years old.

If the alleged victim is incapacitated and therefore unable to give consent, that is ineffective consent.

**2.9 "DECISIONAL AUTHORITY"** – shall mean the College manager or unit who initially opines on whether the Respondent has violated the Policy and, if so, the nature and extent of the discipline and/or remedial action to be imposed or recommended.

**2.10 "INCAPACITATION"** – shall mean a state where someone cannot make informed, rational judgments and decisions "because they lack the capacity to give knowing consent (e.g., to understand the 'who, what, when, where, why or how' of their sexual interaction) (ATIXA)."

Where alcohol is involved, incapacitation is defined with respect to how the alcohol consumed impacts a person's decision-making capacity, awareness of consequences, and ability to make fully informed judgments. Indicators of

incapacitation include, but are not limited to, the following: a person who is passed out, experiencing blackouts, disoriented to their surroundings, or asleep or in and out of sleep.

If the victim is unable to give consent due to incapacitation, and the respondent either knew that fact or reasonably should have known that fact, the respondent will likely be found responsible for Sexual Misconduct.

This policy covers a person whose incapacity results from the taking of drugs. Administering drugs for the purpose of initiating sexual activity with another is a violation of this policy.

**2.11 “PROGRAM OR ACTIVITY”** – shall mean any education program or activity required by the College of a Student that is not operated wholly by the College, or any program or activity that the College facilitates, permits, or considers as part of, or equivalent to, an education program or activity operated by the College, including (but not limited to) participation in educational consortia and cooperative employment and Student-teaching assignments. Such Programs and Activities include College-managed study abroad programs or trips and external sponsorships.

**2.12 “PROGRAM DIRECTOR”** – shall mean a member of the College faculty or other employee of the College who is responsible for managing or overseeing a College Program or Activity.

**2.13 “RESPONDENT”** – shall mean the person(s) named in a Complaint who is accused of a violation of this Policy or who would be found to have violated the Policy if the material facts alleged in a Complaint are determined to be more likely true than not true.

**2.14 “Student” or “Students”** – shall mean all persons who are enrolled at the College and those individuals who have received an offer of admission at the College and meet one or more of the other elements listed in Section 3.2 of the Student Handbook.

**2.15 “Title IX”** – shall mean Title IX of the *Education Act Amendments of 1972* that provides, with limited exception, that: “No person in the United States shall, on the basis of sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any education program or activity receiving Federal financial assistance...” (20 U.S.C. §1681)(see Appendix 2 for complete text).

**2.16 “TITLE IX COORDINATOR”** -- shall mean the College employee(s) who is (are) responsible for coordinating the College’s compliance with Title IX. A Title IX coordinator’s responsibilities include overseeing all Complaints of sex discrimination and identifying and addressing any patterns or systemic problems that arise during the review of such Complaints.

### **3. RESOURCES**

#### **3.1 Where to Seek Immediate Assistance, 24/7**

In addition to reporting requirements under Sections 7.6, 7.7 and 7.8, a Student who is or who knows of another Student who may be the victim of any form of Sexual Misconduct involving violence, the threat of violence, or circumstances under which the victim was incapable of giving consent (because the victim was mentally or physically impaired or under the age of 16), or physically impaired (because of alcohol or drugs), is directed to seek assistance as soon as possible under the circumstances. Assistance can be obtained 24 hours a day, seven days a week from:

**A. College of Charleston, Department of Public Safety – 843-953-5611**

**B. City of Charleston Police Department - 911**

**C. College of Charleston, Office of Victim Services: The 24-hour emergency team response number is 843.724.3600**

### **3.2 On Campus Resources Available To Students**

#### **A. Office of Victim Services**

Emergency #: 843.953.2273 (24-hour emergency team response number)

Non-Emergency #: 843.953.2273 (same as the emergency number)

Location – 67 George Street

<http://victimservices.cofc.edu/>

- i) Purpose — The Office of Victim Services (OVS), is a program that works specifically with College Students who may become a victim of a violent or potentially violent crime or a Policy violation. It does not matter where the victimization occurs, on or off campus, or whether the Student elects to file an official police report or not. OVS services are available to any current Student. This program is designed to prevent re-victimization and provides comprehensive victim assistance at one convenient location.
- ii) Types of Assistance Provided — The OVS victim assistance specialists are available to:
  - Coordinate immediate medical intervention and initial support
  - Explain the reporting process and assist the Student, if he/she chooses, in filing a report with the appropriate law enforcement agency
  - Accompany and/or act on behalf of the victim, as needed
  - Explain the victim's rights, responsibilities and options
  - Assist in arranging meetings or initiating direct contact with individuals involved in on-campus disciplinary actions or
  - Serve as the spokesperson for the Student within the College Community so that the victim's privacy and dignity are maintained in all aspects of intervention and assistance and, as necessary, to serve as liaison with individuals off campus
  - Work with the Student to reasonably appropriate, accommodate possible disruptions to the Student's class attendance, class work, academic schedule, and housing by initiating necessary changes that may result from the victimization
  - Assist in locating appropriate on-campus and community resources to meet the Student's specific ongoing needs
  - Work with appropriate personnel within the court system to provide information relevant to the victim's circumstances and/or direct assistance to the victim
  - Provide access to legal information. This program is designed to prevent re-victimization and provides comprehensive victim assistance at one convenient location.

#### **B. Department of Public Safety**

Emergency #: 843.953.5611

Non-Emergency #: 843.953.5609

Location – 89 St. Philip Street

<http://publicsafety.cofc.edu/>

- i) Purpose – The Department of Public Safety is available to provide emergency assistance, to accept and address criminal Complaints, and to investigate allegations of criminal sexual misconduct.
- ii) Services provided by the Department of Public Safety include, but are not limited to:
  - Students can report occurrences of sexual misconduct and/or can file a criminal Complaint.
  - Attends to student's immediate safety concerns.
  - Takes steps to conduct criminal investigations.

### **C. Dean of Students**

Main Office #: 843.953.5522  
Location – Stern Center, 3<sup>rd</sup> floor  
<http://deanofstudents.cofc.edu/>

- i) Purpose – The Dean of Students is available to address student concerns, including allegations of sexual misconduct.
- ii) Services provided by the Dean of Students include, but are not limited to:
  - Students can report occurrences of sexual misconduct and/or can file a campus Complaint.
  - Explains the student's rights and options.
  - Assists with academic needs and can arrange appropriate interim measures (e.g., changing class schedule or housing). Takes steps to prevent retaliation. Investigates allegations.

### **D. Title IX Coordinator / Director of Office of Equal Opportunity Programs**

Main Office #: 843.953.5758  
Email: eop@cofc.edu  
Location – Robert Scott Small Building, Room 112  
<http://eop.cofc.edu/index.php>

- i) Purpose – The Title IX Coordinator carries out investigations and compliance-related responsibilities for Title IX.
- ii) Services provided by the Title IX Coordinator include, but are not limited to:
  - Students can report occurrences of sexual misconduct and/or can file a Complaint.
  - Explains student's rights and options; can assist with appropriate interim measures; takes steps to prevent retaliation.
  - Investigates allegations.
  - Allegations of sexual misconduct will be maintained as confidential to the extent possible and permitted under law.

### **E. Counseling and Substance Abuse Services**

Main Office #: 843.953.5640  
After Hours #: 843.953.5611 (Public Safety)  
Location – Robert Scott Small Building, 3<sup>rd</sup> floor  
<http://counseling.cofc.edu/>

- i) Purpose – The professionals in the Office of Counseling and Substance Abuse Services (CASAS) are available to help Students, free of charge, and on a regular or an emergency basis.
- ii) Types of Assistance Provided: CASAS provides counseling for individuals who have been victimized; who are suffering the mental health after-effects of a victimization; who have been accused of Sexual Misconduct and who need assistance with family and a variety of relationship concerns. CASAS can also help direct Students to appropriate community resources, both on and off campus, which might better meet their needs. Services include, but are not limited to:

- Assists students who have experienced sexual misconduct with personal counseling/support.
- Provides a list of counselors in the Charleston for survivors seeking off campus counseling assistance. Confidential per SC Code Ann. §19-11-95.
- <http://studentaffairs.cofc.edu/sexual-misconduct-resources/>

#### **F. Student Health Services**

Main Office #: 843.953.5520

Hours: 8:30 a.m. to 5:00 p.m., Monday through Friday

Email: [healthservices@cofc.edu](mailto:healthservices@cofc.edu)

Location 181 Calhoun Street

<http://studenthealth.cofc.edu/>

- i) Purpose – Student Health Services is staffed by physicians, nurse practitioners, physician assistants, and registered nurses and is available to address the health needs of Students only.
- ii) Types of Assistance Provided – In addition to customary and routine healthcare matters, Student Health Services also provides information about sexual health and sexual safety and serves as a resource for Students to acquire information about sexuality. Services include, but are not limited to:
  - Available to address the health needs of students and can provide appropriate referrals.
  - Not able to collect evidence after a sexual assault but can provide a referral.

#### **G. Office of Legal Affairs**

Main Office #: 843.953.5502

Location – Room 302, Randolph Hall

<http://legallaffairs.cofc.edu>

- i) Purpose – The Office of Legal Affairs provides legal advice to the campus regarding our obligations under Title IX, including interpretation of the laws/regulations, implementation of our policies and procedures, responses to complaints and taking steps to prevent violations.

#### **H. Residence Hall Directors and Resident Assistants**

Main Office #: 843.953.5523

Location of Main Office – 40 Coming Street

Hours of Main Office – 8:30 a.m. to 5:00 p.m., Monday through Friday

- i) Purpose – Residence Hall Directors and Resident Assistants are available to provide support to students on a variety of issues, including allegations of sexual misconduct. Resident Hall Directors and Resident Assistants can provide appropriate referrals to students.
- ii) Each Residence Hall and House has an assigned Residence Hall Director. Go to the front desk of your assigned hall and ask for the Residence Hall Director or the Residence Hall Director On-Call.

- I. Student victims of Sexual Misconduct who are participating in a **Program or Activity that is taking place outside of Charleston**, South Carolina (including overseas programs and external internships conducted at business firms or other establishments) may contact local law enforcement authorities; the College of Charleston, Office of Victim Services (the 24-hour emergency team response number is **843.953.2273**); the Program Director for the particular Program or Activity; or the Dean of Students or the Title IX Coordinator who may each be reached during work hours at **843.953.5522** or, can be reached during non-working hours by calling the College of Charleston, Department of Public Safety at **843.953.5611**.

### **3.3 Off-Campus Resources Available to Students**

#### **A. Charleston Police Department**

Phone Number — 911

Address — 180 Lockwood Blvd. Charleston, SC 29403

- i) Students can file criminal complaints with the City of Charleston Police Department for assaults that occur off campus.

#### **B. Medical University of South Carolina**

##### **MUSC SANE (Sexual Assault Nurse Practitioner) MUSC Emergency Room**

Phone Number – 843.792.1414

Address — 171 Ashley Avenue Charleston, SC 29425

- i) Types of Assistance Provided –
- Forensically trained nurses on call for the MUSC Emergency Room 24/7 to assist and collect evidence after an acute sexual assault (within 120 hours/5 days).
  - Office of Victim Services (843.953.2273) can assist with arranging a SANE exam.
  - No cost for a forensic examination for sexual assault, regardless of their involvement with law enforcement, when certain conditions are met. See the State Office for Victims' Services website (<http://www.sova.sc.gov/>).

#### **C. MUSC Institute of Psychiatry**

Phone Number — 843.792.9888 or 1.800.922.5250

Address — 67 President Street, Charleston, SC 29425

#### **D. People Against Rape**

Phone Number — 24/7 - 843.745.0144

Address — 259 Meeting St., Charleston, SC 29401

<http://www.peopleagainstrape.org/>

- i) Types of Assistance Provided –
- 24 hour crisis hotline
  - Crisis intervention
  - Medical and legal appointment accompaniment
  - Support and follow-up via healing process
  - Support groups for victims and their families
  - Individual counseling and therapy referrals

**E. United States Department of Education**

Phone Number — 1.800.872.5327

**F. More Information about Resources**

<http://studentaffairs.cofc.edu/sexual-misconduct-resources/>

**4. WHO ACCEPTS COMPLAINTS**

**4.1.** For Respondents who are Other Than Students – When a person identifies an assailant as a faculty member or an administrator as one who has engaged in Sexual Misconduct the Complaint shall be referred in accordance with Section 2.0 of the **OPERATING PROCEDURES FOR PROCESSING INITIAL COMPLAINTS AGAINST FACULTY AND ADMINISTRATORS AND STAFF** that is attached to and made a part of the College's policy entitled: **PROHIBITION OF DISCRIMINATION AND HARASSMENT, INCLUDING SEXUAL HARASSMENT AND ABUSE**

**4.2.** For Respondents who are Students –When a person identifies a Student as a person who has engaged in Sexual Misconduct, the allegations may be received by the following offices:

- A.** Title IX Coordinator/Director of Equal Opportunity Programs
- B.** The Dean of Students
- C.** The Campus Police or other law enforcement authority
- D.** The Provost

College officials who receive such reports shall immediately refer the matter to the Title IX Coordinator and the Dean of Students for processing and shall not disclose the allegations to anyone else without the prior consent of the Dean of Students, the Title IX Coordinator, or the General Counsel.

**4.3.** Inquiries – Inquiries concerning the application of Title IX to any circumstance may be addressed to the College's Title IX Coordinator at:

**Director**

Kimberly Gertner

Main Office #: 843.953.5758

Fax #: 843.953.6421

Email - gertnerka@cofc.edu

Office of Equal Opportunity Programs

College of Charleston 66 George Street Charleston, SC 29424

Office Location - Robert Scott Small Building, Room 112, 175 Calhoun Street Charleston, SC 29401

**OR**

**The Department of Education, Office of Civil Rights**

Washington DC (Metro) Office for Civil Rights U.S. Department of Education 400 Maryland Avenue, SW  
Washington, D.C. 20202-1475

Main Office #: 202.453.6020

Fax #: 202.453.6021; TDD: 877.521.2172

Email: OCR.DC@ed.gov

**5. CONFIDENTIALITY**

**5.1 Requests for Confidentiality**

The College recognizes that confidentiality is important. Information gathered during an investigation of alleged Sexual Misconduct will be maintained as confidential to the extent reasonably possible and permitted under law. If



the Complainant requests confidentiality or asks that the Complaint not be pursued, the College will take all reasonable steps to investigate and respond to the Complaint consistent with the request for confidentiality or request not to pursue an investigation. If a Complainant insists that his or her name or other identifiable information not be disclosed to the Respondent, the College will inform the Complainant that its ability to respond may be limited. The College will also inform the Complainant that Title IX prohibits retaliation, and that College officials will not only take steps to prevent retaliation but also take strong responsive action if it occurs. Finally, as indicated in Section 5.2, the Complainant will be advised of the circumstances under which his/her request for confidentiality or non-pursuit of a matter may be declined.

## **5.2 Reasons Why Confidentiality May Not Be Appropriate**

- A. Confidentiality** – The College will weigh the request for confidentiality against the following factors: the seriousness of the alleged harassment; the Complainant's age; whether there have been other harassment Complaints about the same individual; and the Respondent's rights to receive information about the allegations, if the information is maintained by the College as an "education record" under the Family Educational Rights and Privacy Act (FERPA), 20 U.S.C. §1232g; 34 C.F.R. Part 99. The College will inform the Complainant if it cannot ensure confidentiality. In all cases when discrimination or harassment is found, however, the College will take steps to limit the effects of the alleged harassment and prevent its recurrence. Examples of situations when confidentiality will not be maintained include circumstances when the College is required by law to disclose information (i.e., in response to legal process such as a subpoena or when the victim is under 18 years of age) or when disclosure is required by the College's outweighing interest to protect the rights and safety of others. If a Student is unsure of someone's duties and ability to maintain confidentiality, the Student should ask them about confidentiality before discussing a matter.
- B. Investigations** – In circumstances when a report of Sexual Misconduct is made, but the Complainant does not wish to pursue the matter, the College reserves the right to investigate the report and take appropriate action under this Policy. The College is likely to make a decision to pursue such a matter if it determines, in the exercise of its discretion, that: (i) the allegations, if true, give reason to believe that the Complainant or other members of the College Community may be at continued risk of victimization and/or that the College may be put at risk of legal liability; and (ii) the Complainant is credible.
- C. Results** – If an investigation reveals that discriminatory harassment has occurred, the College will take prompt and effective steps reasonably calculated to end the harassment, eliminate any hostile environment and its effects, and prevent the harassment from recurring. The College will pursue this course of action regardless of whether a student has complained, asked the school to take action, or identified the harassment as a form of discrimination.

## **5.3 Immediate Preliminary Report of Investigation**

In order to make evaluations under this Section and to decide if interim action is needed as provided for in Section 8.0, the Title IX Coordinator or the Dean of Students, or her/his designee, may conduct an immediate preliminary investigation into the alleged Sexual Misconduct. If one or more material elements of the Complaint are credible, the matter shall be processed further in accordance with this Policy, including the imposition of interim actions as may be appropriate pursuant to Section 8.0. If there is no credible basis to believe any material element of the Complaint, the Complainant shall be advised of the same and shall have the right to appeal the decision to the Executive Vice President for Student Affairs. Such an appeal shall be filed within 5 working days of notification by the investigator and the Executive Vice President shall have an additional 5 working days from the receipt of the appeal to either dismiss the matter or to remand it back to the investigator for further processing under this Policy.

## **6. FEDERAL REPORTING OBLIGATIONS**

### **6.1 Requirements**

As a condition for participating in certain Federal financial assistance programs for student loans and grants, Federal law requires that the College do a number of things to protect the safety of Students and employees. One such

requirement deals with the reporting of crime statistics, and another deals with security-related notifications for Students and employees.

## 6.2 Crime Statistics

The College collects, classifies and counts certain types of crimes occurring on or near the College campus and reports such data to the federal government each year. These statistics cover the most recent calendar year, and the 2 preceding calendar years for which data are available. The following criminal offenses, that are first reported to “Campus Security Authorities” or local police agencies, are reported to the Government: (a) murder; (b) sex offenses, forcible or nonforcible; (c) relationship violence; (d) domestic violence; (e) stalking; (f) robbery; (g) aggravated assault; (h) burglary; (i) motor vehicle theft; (j) manslaughter; (k) arson; and (l) arrests or persons referred for campus disciplinary action for liquor law violations, drug-related violations, and weapons possession (“Clery Act Crimes”). With crimes involving bodily injury to any person, in which the victim is intentionally selected because of the actual or perceived race, gender, religion, sexual orientation, gender identity, ethnicity, or disability of the victim that are reported to Campus Security Authorities or local police agencies, such data is also collected and reported according to category of prejudice. **When reporting these statistics the College does not provide the federal government with the identity of the victims of these crimes.**

- A. Each year the College will publish an annual security report containing safety- and security-related policy statements and crime statistics and will make such report available to all current Students and employees, as well as, the public. The reports for the most recent three years can be found at:  
<http://Studentaffairs.cofc.edu/annual-security/index.php>

## 6.3 Timely Warnings

- A. Continuing Threats – To provide the College Community with information necessary to make informed decisions about their safety, the College will issue a timely warning for any Clery Act crime that represents an ongoing threat to the safety of Students or employees. The College will issue such a notice in a manner that is timely and will aid in the prevention of similar crimes, if such crimes that are –
  - i) Clery Act Crimes (see section 6.2 of this Policy);
  - ii) Reported to a Campus Security Authority; and
  - iii) Considered by the Chief of the College Police Department to represent an ongoing threat to Students and employees.
- B. Alerts and Warnings – Depending primarily on the proximity of the crime to the campus the College will issue either a “Cougar Alert” (for emergencies occurring on College property and contiguous areas), or a “Timely Warning” (for a Clery Act crime that takes place on College property). The information contained in such a notice will include all material information that would promote safety, such as the topic of the alert, a description of the perpetrator, location, time and date of the crime(s), and other information on what to do to avoid danger or to address the ongoing threat. The decision to issue a Clery Act warning is made by the Chief of Campus Police based on a threat assessment conducted by that Department. **The identity of the victim will not be stated in an Alert or Notice.**
- C. Exceptions– Clery Act crimes reported to a pastoral, health professional or professional counselor need not be reported to a Campus Security Authority.

## 7. INVESTIGATIVE AND OTHER PROCEDURES

### 7.1 Right to Pursue Internal Charges during a Criminal Investigation or Prosecution

Generally, the investigation of a Student for alleged Sexual Misconduct will not be postponed if the Complainant and/or Respondent has/have been charged with a crime arising out of an event related to the Complaint. In such a circumstance, the Office of Legal Affairs shall be notified by the Dean of Students of the criminal matter and the Dean will decide, on a case-by-case basis, whether exceptional circumstances exist to warrant delaying the investigation and/or hearing of the matter. The College will respond to and cooperate with law enforcement authorities in such investigations and encourages Students who have been victims of sexual assaults to report those matters to law enforcement authorities as soon as practicable.

## **7.2 Standards for Culpability**

A preponderance of the evidence is the standard adopted by this Policy to determine if a Student has engaged in Sexual Misconduct. A preponderance of the evidence means that credible information shows it is “more likely than not” that the Respondent violated this policy. Because the standard of evidence for the conviction of a crime (“beyond a reasonable doubt”) is different from the standard used to determine a violation of this Policy (“a preponderance of the evidence”), the outcome of a police investigation or criminal trial is not determinative of whether alleged Sexual Misconduct violates this Policy. Therefore, conduct may constitute Sexual Misconduct under this Policy even if law enforcement authorities lack sufficient evidence of a crime and decline to prosecute.

## **7.3 Right to Pursue Internal College Action**

Regardless of whether a Complainant elects to file a criminal complaint or initiate a civil law suit, the College is entitled to pursue internal College procedures to investigate allegations of Sexual Misconduct and to receive appropriate remedial actions and remedies by the College that may be warranted under the circumstances.

## **7.4 Applicable Investigative Procedures**

In Complaints of Sexual Misconduct when the alleged wrongdoer (Respondent) is other than a Student, the matter shall be investigated and resolved in accordance with the College policy entitled: **PROHIBITION OF DISCRIMINATION AND HARASSMENT, INCLUDING SEXUAL HARASSMENT AND ABUSE**. In Complaints when the Respondent is a Student, the matter shall be investigated and resolved in accordance with this Policy and the College’s procedures for resolving violations of the **STUDENT CODE OF CONDUCT**.

## **7.5 Basic Requirements of All Internal Investigatory Processes and Hearings**

Throughout any College’s investigation of a violation of this Policy, including at any hearing, the Complainant and the Respondent will have equal rights with respect to calling witnesses, presenting evidence, timely reviewing evidence (including the statement of the other Parties), and having an attorney or other support person in attendance at the proceedings for purposes other than addressing the Board or the Hearing Officer. Under no circumstances will one Party be permitted to directly cross examine another Party. Throughout the process both the Complainant and the Respondent are to be treated with dignity and respect and both shall be informed in writing of the outcome of a campus proceeding. The College will maintain documentation of all proceedings which may include written findings of facts, transcripts, or audio recordings. Such records shall be maintained for at least one year after all appeals have been finally decided, or the right to appeal has been exhausted. These procedures shall neither expand nor reduce a private right of action under existing laws.

## **7.6 Reporting Sexual Harassment/Abuse When the Student is the Alleged Wrongful Actor**

The College will accept Complaints of Sexual Misconduct from any member of the College Community or from any other person who believes that a violation of this Policy may have occurred on College Property, or during the conduct of a College Program or Activity regardless of the location of that Program or Activity, or on other than College Property if there is any allegation that the off-campus misconduct may result in sexual misconduct on College Property. If the Respondent was a Student at the time of the alleged Sexual Misconduct, there is no time limit to invoking the protections and processes available under this Policy. Nevertheless, Students are encouraged to report alleged Sexual Misconduct immediately in order to maximize the College’s ability to obtain evidence and conduct a prompt, thorough, impartial and reliable investigation. Once the College becomes aware of Sexual Misconduct it will take immediate steps to end the harassment, prevent its recurrence, and to address its effects.

## **7.7 Duty to Report**

Any member of the College Community who reasonably believes that s/he has experienced or witnessed any form of sexual misconduct, harassment or abuse proscribed by this Policy has a responsibility to report the situation immediately to one of the persons listed in the Section 4.0. A member of the College Community, including Students, who witnesses but fails to report such a situation, may be subject to the immediate consideration of disciplinary or other remedial action if the failure to report has placed a member of the College Community at risk of

harm or the College at risk of legal liability. The nature and extent of the action taken, if any, will depend on the following factors: (a) the severity of the circumstances observed; (b) the position/status of the person who observed the incident; (c) the position/status of the observed victim and observed violator; and (d) the consequences of the failure to report or the failure to report in a timely manner.

### **7.8 Additional Duty in Reporting Child Abuse**

South Carolina law requires certain persons to report Child Neglect or Abuse as it affects Students and others younger than age 18, even when it occurs outside the College.

Among other designated persons, South Carolina law requires that schoolteachers, counselors, healthcare clinicians, substance abuse treatment staff, childcare workers in any day care center, police or law enforcement officers, and computer technicians, who have reasonable cause to believe that a child's physical or mental health or welfare has been or may be adversely affected by Abuse or Neglect, as defined by state law, are to immediately report it to the local Department of Social Services or other proper law enforcement agency.

A faculty or staff member who suspects or has any concern regarding Child Abuse or Neglect may report this information promptly to his/her Department Head, Director of Human Relations and Minority Affairs, the Dean of Students, the Campus Police or other law enforcement authority, the Provost, or the General Counsel. College officials who receive such reports shall consult with the Office of Legal Affairs and the College's Chief of Police who will determine the College's duty under the circumstances and, if determined appropriate, will assist in contacting the proper external authorities.

A faculty member or member of the administration who has reason to suspect abuse or neglect and fails to report it is subject to prosecution; however, the person making the report based on valid suspicion and concern is protected by law from both civil and criminal retaliation.

### **7.9 Effect on the Graduating Respondents**

When the accused Respondent is a degree candidate who is anticipated to graduate within the academic year, the Complainant shall consult with the Dean of Student's Office concerning the Respondent Student's intended date of graduation. In no event will the College allow an impending graduation to unduly delay its resolution of a Complaint under this Policy. The conferral of a degree may, therefore, be delayed, if appropriate under the circumstances, until a Sexual Misconduct charge is resolved.

### **7.10 Conditional Amnesty for Alcohol and Other Drugs**

In deference to its compelling interest to end Sexual Misconduct, the College has elected not to pursue any related alcohol and other drugs use/possession violations against a Student who claims to be a victim of Sexual Misconduct or against Students named as a Respondent, or Students who are witnesses or reporters, as may be appropriate under the circumstances.

### **7.11 Initial Meetings**

Prior to the conduct of an initial investigation as described in section 5.3, the Dean of Students or designee shall have an initial meeting with the Complainant as soon after the Complaint is filed as is practicable. The purpose of that meeting shall be to: (a) discuss this Sexual Misconduct Policy; (b) review the availability of assistance for the Complainant such as the Office of Victim Services, Counseling and Substance Abuse Services, Student Health Services and Honor Advisors; (c) discuss the need for interim interventions for the Complainant and Respondent, as provided for in section 8.0; (d) give Notice that retaliation will not be tolerated; and (e) provide a general understanding of the investigation and hearing processes and the affiliated timeline.

### **7.12 Options to Resolve the Complaint**

During the initial meeting described in Section 5.1, the Dean of Students or designee will ask the Complainant how she/he wishes to proceed, namely, by formal resolution or, in limited circumstances, by informal resolution (facilitated discussion or mediation with the Respondent). In either event the Dean will determine the name of the

accused Student, and the date, location and nature of the alleged sexual misconduct and will ask the Complainant to prepare a written statement. In no event will an alleged sexual assault be appropriate for mediation.

### **7.13 Notification and Coordination with Campus Title IX Coordinator**

- A.** Upon the filing of a Complaint with the Dean of Students, the Dean will notify the Title IX Coordinator and provide the Coordinator a copy of the Complaint. The Dean of Students and the Title IX Coordinator will confer in order to determine whether or not there is a reasonable basis to pursue the allegations. The Title IX Coordinator, after consultation with the Dean of Students, may conduct the immediate preliminary investigation (described in Section 5.3) and any other investigation herself/himself or may appoint one or more investigators (including the Dean of Students) to conduct such investigations (hereinafter the “Investigator”). In cases when the Respondent is a Student, or if there is more than one Respondent, when all Respondents are Students, it is expected that the Dean of Students will be designated as the Investigator.
- B.** The Title IX Coordinator shall communicate regularly with the Department of Public Safety and to provide information regarding Title IX requirements.
- C.** The Title IX Coordinator, or the Investigator appointed by the Coordinator, shall review all evidence in a sexual harassment or sexual violence case brought before the College’s Honor Board or Hearing Officer to determine whether the Complainant is entitled to a remedy under Title IX that was not available through the Honor Board/Officer.

## **8. ASSESSMENT FOR IMMEDIATE INTERIM ACTION**

### **8.1 Determinations**

Whenever there is a Complaint of alleged Sexual Misconduct, the Dean of Students and the Title IX Coordinator will undertake an immediate preliminary investigation (as described in Section 5.3) and, if appropriate, take interim action to support and protect the Complainant and/or the Respondent. To the extent practicable under the circumstances, such actions shall be pre-approved by the Executive Vice President for Student Affairs and the General Counsel.

### **8.2 Types of Interim Actions Available**

Interim actions include, but are not limited to:

- Orders of “no contact”
- Providing an escort to ensure that the Complainant can move safely between classes and activities
- Moving the Complainant or Respondent to a different residence hall
- Providing counseling services
- Providing medical services
- Providing academic support services, such as tutoring;
- A ban from specific buildings or areas of the campus
- Adjustments to academic schedules
- Interim suspension and ban from campus
- Any other action that the College believes is reasonable and appropriate under the circumstances

A violation of the interim actions by the Complainant or the Respondent will constitute a related offense that may result in the imposition of disciplinary action.

## **9. MEDIATION**

### **9.1 Informal Resolution**

Except as provided for in Section 9.6, mediation is the preferred way to resolve most disputes between members of the College Community. In order for mediation to take place on any Complaint, however, it must be mutually acceptable to both the Respondent and the Complainant. During the mediation, the Investigator meets individually with each Party and with each collectively with both Parties, as appropriate. Understanding the sensitivity surrounding allegations of sexual misconduct, a mediation may not be appropriate in such cases (see also section 9.6 below). Either the Complainant or the Respondent may refuse mediation or, once commenced, end mediation at any time. No adverse inference is to be drawn from any such decision to accept or reject mediation. If a mediated compromise is reached between the Parties, it must be approved by the Investigator and the Executive Vice President for Student Affairs. The Executive Vice President may consult, as appropriate, with affected supervisor(s) and others and shall seek legal advice from the General Counsel to resolve or discuss legal issues.

### **9.2 Non-Disclosure**

In order to promote honest, direct communication, information disclosed during Informal Resolutions shall remain confidential, except when disclosure may be required by law or is necessary to discharge a legal or ethical responsibility of the College.

### **9.3 Mediated Agreements**

All mediated agreements shall be reduced to writing and a copy shall be given to both the Complainant and the Respondent. A copy of the agreement shall also be maintained in the Office of the Dean of Students.

### **9.4 Consequences of a Breach of the Agreement**

If there is a breach of the mediated agreement by either Parties the College may, in the exercise of its reasonable discretion, discipline the breaching Parties and/or declare the agreement null and void and of no force or effect and reinstate the Complaint.

### **9.5 Time Limitations**

If a negotiated agreement cannot be reached within 30 days from the first mediation session, the matter shall be referred for formal investigation under Section 10.0.

### **9.6 Inappropriate Circumstances for Mediation**

The College will not agree to any mediated solution to a Complaint, despite the wishes of the Parties, when it has reason to believe that:

- A.** A sexual assault or any other form of violence has taken place;
- B.** The Complainant and the Respondent are so diametrically adverse in positions or have such conflicting views that resolution by mediation seems unlikely;
- C.** There is an unreasonable risk of violence or intimidation by one Parties against the other;
- D.** The Respondent has been charged with a crime arising out of the event giving rise to the Complaint; or
- E.** For other good cause shown, in the best interest of the Parties, as determined in the discretion of the Investigator.

### **9.7 No Mediation or Unsuccessful Mediations**

If mediation is not feasible or appropriate under the circumstances, or if not successful within a reasonable period of time (as provided for in Section 9.5), the Investigator is to commence a formal investigation.

## **10. FORMAL INVESTIGATION**

### **10.1 Commencement**

The Investigator shall first identify all provisions of this Policy that may have been violated if the allegations made by the Complainant prove more likely true than not true. Only those allegations that would, if true, constitute a violation of this Policy should be investigated; and only evidence that tends to prove or disprove such allegations shall be considered relevant to the investigation. If the Investigator reasonably determines that even if all allegations prove true there would be no violation of this Policy, the matter shall not be investigated. In that event the Complainant shall be advised of the same and shall have the right to appeal the decision of the Investigator to the Executive Vice President for Student Affairs. Such an appeal shall be filed within 5 working days of notification by the Investigator and the Executive Vice President shall have an additional 5 working days from the receipt of the appeal to either dismiss the matter or to remand it back to the Investigator for further processing under this Policy.

### **10.2 Notice**

Except as provided in this Section 10.2, the Investigator is to notify the Respondent, in writing, that allegations have been made against him/her and the nature of the allegations. This Policy shall be cited and the Respondent shall be informed that retaliation in any form against the Complainant or an actual or potential witness is strictly prohibited. The Respondent shall also be notified that s/he will have an opportunity to address the allegations and to submit evidence on his/her own behalf. In exceptional cases, notification of the Respondent may be delayed if the Investigator determines that such notification may put the Complainant or a witness at risk or impede the investigation.

- A. If the matter is to be heard and decided by the Honor Board or by a single Hearing Officer, the Dean of Students, or the Title IX Coordinator as the case may be, shall submit to the Honor Board or Hearing Officer the Preliminary Report of Investigation (as prepared pursuant to section 10.4) and a pre-hearing report that summarizes the allegations, the defenses asserted, and the material facts that would tend to prove or disprove the allegations. Such Preliminary Report of Investigation and pre-hearing report shall be used by the Board/Officer to prepare for the hearing and to acquaint themselves with the relevant issues to be decided.

### **10.3 Decisional Authority**

- A. Hearing Board – For complaints of sexual misconduct, the Honor Board shall be made up of three faculty/staff who have received training on the policy and procedures regarding Complaints of Sexual Misconduct. The Honor Board shall be considered the Decisional Authority, subject to such reviews by the Executive Vice President for Student Affairs as provided for in Section 16.0.
- B. Hearing Officer – A Hearing Officer may only be used in lieu of Honor's Board if both the Complainant and the Respondent agree to the use of a Hearing Officer. Both Parties shall be informed that in the event of a Hearing Officer that Officer may also conduct the investigation as well as render the decision. For complaints that are heard by a Hearing Officer, that Officer shall be considered the Decisional Authority, subject to such reviews by the Executive Vice President for Student Affairs as provided for in Section 16.0.
- C. Authority of the Decisional Authority – The Decisional Authority may: (i) sustain all or some of the charges and determine the culpability of any Parties; (ii) impose or recommend the imposition of sanctions; (iii) find one or more of the charges not sustained by the evidence and dismiss such charges; and/or (iv) remand the matter for more investigation by the appropriate Investigator.

### **10.4 Evidence and the Role of Legal Counsel**

The following principles shall apply with respect to any investigation, whether conducted by an Investigator and regardless of who may be acting as the Decisional Authority:

- A. **Fact Gathering** – To the extent reasonably practicable under the circumstances, there shall be interviews of the Complainant, the Respondent and other witnesses, the examination of written statements from the Parties, the review of all relevant documents, and the consideration of any other evidence that would tend to prove or disprove the material factual allegations. Executive Vice Presidents are to take reasonable measures to assure that the Investigator and the Decisional Authority have access to witnesses, documents, and such other evidence as may be reasonably necessary under the circumstances to discover and consider relevant facts. Interviewers shall make notes of all interviews conducted as part of the investigation if not otherwise recorded in a transcript of a hearing.
- B. **Legal Counsel** – Witnesses, including the Complainant and the Respondent, may have legal counsel present at interviews or at a hearing, but counsel may not participate in the interview or hearing (that is, answer questions for, or ask questions on behalf of, their clients or make statements) and may be asked to leave the interview site if disruptive or causing an unreasonable delay in the conduct of the interview or hearing. Prior to any such interview with counsel in attendance, the Dean of Students shall notify the General Counsel and afford the General Counsel the opportunity to attend the interview or proceedings.
- C. **No Inference** – A negative inference may not be drawn by the Complainant's or Respondent's decision not to provide a statement or give an interview. In such event, the matter will be decided without the benefit of such participation.
- D. **Consequences for Interference** – A member of the College Community who interferes with an investigation or hearing conducted under this Policy shall be subject to disciplinary action up to and including termination or expulsion, depending on the frequency or seriousness of the offense.
- E. **Opportunity to Respond** – The Respondent must be given a meaningful opportunity, at a meaningful time, to respond to the allegations in the Complaint and present relevant evidence on their behalf during the investigation.

## **11. HEARING**

### **11.1 Pre-Hearing**

The Chair of the Honor Board or Hearing Officer will schedule a pre-hearing meeting prior to the hearing date. At the meeting the Chair or Officer will review hearing procedures with the Parties, separately or jointly. The Chair or Officer will also review the Complaint of alleged Sexual Misconduct (and related misconduct, if applicable), and review the Parties' respective lists of proposed witnesses to assist them in eliminating duplicative or non-relevant statements or other information.

### **11.2 Exchange of Information**

The Parties will provide the Chair or Officer with a list of witnesses they wish the College to call, and copies of documents and a description of any other information they propose to enter into the record and present at the hearing. Unless for good cause shown, the witness lists, documents and other information must be submitted at least five business days prior to the hearing. In the absence of good cause (such as impeachment of a newly asserted allegation), as determined by the Chair or Officer in the exercise of his or her sole discretion, the Parties may not introduce witnesses, documents or other information at the hearing that were previously undisclosed.

### **11.3 Modification of the Proceedings**

The College reserves the right, acting through the Chair of the Honor Board or Hearing Officer, to add to or modify the alleged violations of this Policy and to add witnesses to the witness lists at the pre-hearing meeting and/or at the hearing in order to conform to the evidence, provided that, both the Complainant and the Respondent have an equitable opportunity at a meaningful time to respond to such additions or modifications.



#### **11.4 Notification of Any Special Arrangements for Hearing**

Absent a showing of good cause, special needs regarding the hearing room set-up shall be communicated to the Chair of the Honor Board/Hearing Officer and the Dean of Students at least two working days before the scheduled hearing. After review, the Dean will ask the Decisional Authority, as appropriate, to accommodate concerns for the personal safety, well-being, and/or apprehensions of the Complainant, Respondent, and/or other witnesses during the hearing. Among other accommodations this may include using a visual screen, or by permitting participation by telephone, videophone, Skype®, audio tape, written statement, and/or other means appropriate to the circumstances that do not violate principles of fundamental fairness for all concerned.

#### **11.5 Challenges**

A Party desiring to challenge the participation of any Honor Board member for cause (such as a conflict of interest) must notify the Board Chair, in writing, within three calendar days of receipt of the Notice of Pre-Hearing, stating the specific reasons for the objection. The Chair will determine whether the challenge has merit and may make changes in the Board's composition if such a challenge is warranted under the circumstances.

#### **11.6 Persons Admitted To Hearing; Role of Advisors**

Both the Respondent and the Complainant may be accompanied at any time during the Complaint resolution process by an advisor. Advisors may not be called as a witness by the Party using that advisor and may not participate in the interview or hearing as a representative of that Party (that is, answer questions for, or ask questions on behalf of, their advisee or make statements for the advisee). Advisors may be asked to leave the interview site if disruptive or causing an unreasonable delay in the conduct of the interview or hearing. An attorney may act as an advisor, subject to the limitations stated in Section 10.4(b). A member of the public shall not be admitted to the Hearing as a spectator unless: (a) all Parties first agree; or (b) the spectator is the parent or legal guardian of a Party and that Party is under 18 years of age.

#### **11.7 Examination of Evidence**

The hearing will not follow a courtroom model and formal rules of evidence will not be observed. The Chair or Hearing Officer will determine the order of the witnesses and resolve any questions of procedure or relevancy arising during the hearing.

#### **11.8 Time Estimates**

After a Complaint is filed, or the College elects to investigate a matter, the Investigator shall prepare a schedule that includes dates for the following, as may be applicable to the matter: (a) the Preliminary Interviews; (b) mediation; (c) pre-hearing meeting with the Decisional Authority; (d) the exchange of evidence; (e) the hearing; and (f) finalization of the final Report of Investigation. Except for good cause shown, and taking into account pending workload requirements, other assigned cases, and the complexity of the individual Complaint being investigated, the period of time from the filing of a Complaint, or a College decision to investigate a matter, to the completion of the preliminary Report of Investigation shall not exceed 60 calendar days. The Decisional Authority shall render a decision within 30 calendar days from receipt of the preliminary Report of Investigation.

#### **11.9 Operating Procedures**

The Executive Vice President for Student Affairs or his/her designee shall adopt such operating procedures for the hearing as maybe appropriate, provided that, such operating procedures are not in conflict with any provision of this Policy or any other College Policy and are available to all Students.

#### **11.10 Post Finding**

If the Decisional Authority determines that the Respondent Student is responsible for Sexual Misconduct, the Complainant may present the Decisional Authority with a written or verbal statement recommending sanctions and remedies, and a description of how the actions of the Respondent have impacted the Complainant's educational and

personal goals. The Respondent will be provided an opportunity to respond to the Impact Statement. The Decisional Authority is not bound by these statements in determining sanctions.

## **12. REPORT OF INVESTIGATION AND DETERMINATION**

### **12.1 Issuance of a Final Report of Investigation and Determination (the “Report”)**

Regardless of whether a Complaint is resolved by a Hearing Officer or by the Honor Board, a Final Report of Investigation shall be completed. The content of the Report shall be principally confined to the matters listed in subsections (a) through (f) of this Section 12.1. No legal conclusions are to be presented in the Report as to the applicability of any law, or whether any law was violated; except that, the Report must state that retaliation is a violation of both law and College Policy. The Final Report shall contain at least the following five sections:

- A.** The allegations;
- B.** The applicable policy or policies involved;
- C.** The method of investigation, including a list of witness interviewed, documents reviewed and other evidence considered;
- D.** Findings of fact and factual conclusions;
- E.** A determination as to whether the Policy has been violated, and if so, the sanctions to be imposed; and
- F.** Proposed remedies for the Complainant, if appropriate.

### **12.2 The Record**

The Final Report and all its exhibits and referenced materials and the electronic transcript of the hearing (if such a hearing was held) shall be the official record of the investigation.

### **12.3 Maintenance of the Record**

After the investigation has been completed and the determination of the Decisional Authority has been rendered, the official record of the investigation, the preliminary Report of Investigation and the determination of the Decisional Authority shall be maintained in the Office of the Dean of Students. These materials shall be available to: (a) the Complainant and the Respondent, with such redactions as may be required under law; (b) the investigator, the Decisional Authority, and the Office of Legal Affairs; and (c) such third Parties who may have a legal right to access such materials, in whole or in part, as determined by the General Counsel.

## **13. SANCTIONS AND EFFECTIVE DATE**

### **13.1 Types of Sanctions and Guidelines**

The Decisional Authority is required to consider suspending or expelling any Student found culpable for Sexual Misconduct; however, the Decisional Authority may impose any other sanction that it finds to be fair and proportionate to the violation(s) and the attending circumstances. Other sanctions may include removal from campus housing, deferred suspension, mandatory referral to counseling, and/or disciplinary service. Matters that may be considered when deciding on the appropriate sanctions, include –

- A.** The record of past violations of any College Policy, the Honor Code, or government rules, regulations or laws, as well as the nature and severity of such past violations;
- B.** The acknowledgement of wrongdoing by and the commitment of the Respondent to conform his/her conduct to acceptable standards in the future;
- C.** Whether alcohol or controlled substances were involved in the incident;
- D.** Whether violence was involved in the incident; and
- E.** If the Respondent Student poses a continuing risk to the Complainant and/or the College Community.

### **13.2 Actions by the Honor Board**

Determination and Sanction decisions made by the Honor Board must be by majority vote of all members of the Board, except that a sanction of expulsion shall be by a unanimous vote of the entire Board. In the event that the Board cannot agree on a sanction after a finding of culpability, the sanction decision shall be made by the Dean of Students.

### **13.3 Timing of Sanctions**

Sanctions imposed by a Decisional Authority are not effective until any pending appeal of the finding and/or sanctions is finally resolved by the Executive Vice President for Student Affairs. However, if advisable to protect the safety of the Complainant or the College Community, the Decisional Authority may recommend to the Executive Vice President for Student Affairs that any suspension (or suspension preliminary to an expulsion) be effective immediately pending the exhaustion of appeal rights or a decision on appeal.

## **14. REMEDIES FOR THE COMPLAINANT**

**14.1** Depending on the findings of the Decisional Authority, remedies for the Complainant may include, but are not limited to, one or more of the following:

- A. Providing an escort to ensure that the Complainant can move safely between classes and activities;
- B. Ensuring that the Complainant and the Respondent do not attend the same classes;
- C. Moving the Complainant or Respondent to a different residence hall;
- D. Providing counseling services;
- E. Providing medical services;
- F. Providing academic support services, such as tutoring;
- G. Arranging for the Complainant to re-take a course or withdraw from a class without penalty, including ensuring that any changes do not adversely affect the Complainant's academic record; and
- H. Reviewing any disciplinary actions taken against the Complainant to see if there is a causal connection between the harassment and the misconduct that may have resulted in the Complainant being disciplined.

## **15. NOTIFICATION OF OUTCOME**

### **15.1 Timing**

Within two working days of a decision by a Decisional Authority on a Complaint, the Office of the Dean of Students will issue two documents to both the Respondent and the Complainant: a determination letter and a memorandum opinion letter. The determination letter will contain the following information: the name of the Respondent Student; whether the Respondent was found in violation or not in violation for specific violations of the Sexual Misconduct Policy and the sanctions, if any, imposed. The memorandum opinion letter will contain all of the information in the determination letter in addition to a summary of the Decisional Authority's rationale for its decision, as well as, a notice of appeal rights. The determination letter, the memorandum opinion letter and the record of proceedings are education records within the meaning of the Family Education Rights and Privacy Act (20 U.S.C. §1232g, 34 C.F.R. Part 99) and may not be disclosed except when disclosure is authorized or required by law or College Policy.

## **16. APPEALS**

### **16.1 Who May File**

The Complainant and the Respondent may each file an appeal. Appeals are to contain the information described in Section 16.2 and shall be filed with the Executive Vice President for Student Affairs (66 George Street, Stern Center, College of Charleston, Charleston, SC 29424 ), with a copy to the Dean of Students (66 George Street, Stern Center, College of Charleston, Charleston, SC 29424 ). The Dean will then notify and provide a copy of the appeal to the other Party to the proceeding. The non-appealing Party shall have three days from receipt of the appeal to state their position on the appeal with the Executive Vice President for Student Affairs with a copy to the Dean of Students.

## 16.2 Grounds for Appeal

A decision reached or a sanction imposed by a Decisional Authority may be appealed within five (5) working days of the transmittal of the decision to the Party who is appealing. Such appeals shall be in writing and shall cite the name of the case; the grounds for the appeal and the relief requested. The only grounds that will justify changing or overruling a decision by the official or Honor Board are the following:

- A. There was no reasonable basis in the record for the decision rendered or the sanction imposed;
- B. There was a substantive mistake of procedure that likely influenced the outcome of the proceeding; or
- C. New evidence, sufficient to alter a decision was not brought out in the original hearing, because such evidence was either unavailable or unknown at that time after diligent inquiry by the person appealing.

\*The Executive Vice President will reach a determination on the appeal within ten (10) working days from the receipt of the appeal. At this stage in the process, the Executive Vice President for Student Affairs' response time may be modified if circumstances dictate. The decision of the Executive Vice President is final.

## 17. RETALIATION

The College prohibits adverse treatment of employees or Students for exercising their rights under this Policy. Any good faith report of discrimination and/or harassment, experienced or observed, should be made without fear of retaliation by the College. **RETALIATION AGAINST ANY EMPLOYEE OR STUDENT FOR FILING A COMPLAINT OR PARTICIPATING IN AN INVESTIGATION IN GOOD FAITH IS STRICTLY PROHIBITED BY LAW AND THIS POLICY. VIOLATORS WILL BE SUBJECT TO THE IMMEDIATE CONSIDERATION OF DISCIPLINARY AND/OR REMEDIAL ACTION THAT COULD INCLUDE SEPARATION FROM THE COLLEGE.**

**17.1** Intentionally making a false report or providing false or materially misleading information during an investigation also constitute grounds for discipline and/or remedial action.

## 18. TRAINING AND EDUCATION

### 18.1 Training

It is the responsibility of the Executive Vice President for Student Affairs to ensure that all persons within the Division of Student Affairs are appropriately and periodically trained on this Policy.

### 18.2 Development of Materials and Implementation of Policy

The Title IX Coordinator, in cooperation with the Dean of Students, shall develop materials on sexual harassment and violence that shall be distributed to Students during orientation and upon receipt of Complaints, as well as widely posted throughout College buildings and residence halls. This material shall include:

- A. What constitutes sexual harassment or violence;
- B. What to do if a Student has been the victim of sexual harassment or violence;
- C. Contact information for counseling and victim services on and off school grounds;
- D. How to file a complaint with the College;
- E. How to contact the school's Title IX Coordinator or the Dean of Students; and

- F. What the College will do to respond to allegations of sexual harassment or violence, including the interim measures that can be taken.

### **18.3 Committee on Sexual Misconduct**

The Executive Vice President for Student Affairs shall establish a *Committee on Sexual Misconduct*. Members of the Committee shall be the Dean of Students, the Title IX Coordinator, the Director of the Office of Equal Opportunity Programs, and such other faculty, staff and Students as the Executive Vice President shall decide. The Committee shall identify strategies for ensuring that Students:

- A. Know the College's prohibition against sex discrimination, including sexual harassment and violence;
- B. Recognize sex discrimination, sexual harassment, and sexual violence when they occur;
- C. Understand how and to whom to report any incidents, including any incident that may take place during a Program or Activity conducted overseas or on other than College Property;
- D. Know the connection between alcohol and drug abuse and sexual harassment or violence; and
- E. Feel comfortable that school officials will respond promptly and equitably to reports of sexual harassment or violence.

The Committee shall also consider other steps that clearly communicate that the College does not tolerate sexual harassment and violence and will respond to any incidents and to any Student who reports such incidents. In addition, the Committee may recommend such changes to this Policy as it believes appropriate to ensure that the procedures contained herein for resolving Complaints are prompt and equitable.

## **19. RESPONSIBILITY FOR POLICY MAINTENANCE**

The Title IX Coordinator, upon consultation with the Dean of Students and the General Counsel, shall be responsible for the periodic review and maintenance of this Policy. Such reviews shall take place no less frequently than once during each three year period and shall be provided to the President's Executive Team within seven calendar days of completion.

## **20. AMENDMENTS**

This Policy and Procedure may be amended at any time in accordance with the Colleges *Campus Wide Policy Making Procedures*.

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## **APPENDIX 1: SCENARIOS OF SEXUAL MISCONDUCT**

### **A. Verbal Sexual Misconduct**

A Student repeatedly sends sexually oriented jokes around on an email list they created, even when asked to stop, causing one recipient to avoid the sender on campus and in the residence hall in which they both live.<sup>1</sup>

An ex-girlfriend widely spreads false stories about her sex life with her former boyfriend to the clear discomfort of the boyfriend, turning him into a social pariah on campus.<sup>2</sup>

### **B. Non-Verbal Sexual Misconduct**

Explicit sexual pictures are displayed in a professor's office, on the exterior of a residence hall door or on a computer monitor in a public space.

Posting photos of an individual naked without their consent to Facebook, Twitter, a blog, etc. Discussing another individual on social networks in a sexually explicit way. Attaching a caption with a person's name to a sexually explicit photo and sharing that photo and caption through a form of social media.

### **C. Coercion**

One student tells another student that they will spread false rumors about the second student unless they comply with the first student's sexual demands.

### **D. Stalking**

A male student notices that a female student follows him to his classes regularly; she has also tried to enter his residence hall building improperly; she appears at locations he regularly frequents; and she is seen often observing him from a distance. Cyberstalking – using the internet and other electronic means to stalk an individual. A person, for example, states in a posting that he is monitoring the other person and has gathered information to use to threaten, libel and harass.

### **E. Non-Consensual Sexual Contact**

Intentional contact with the breasts, buttock, groin, or genitals, or touching another with any of these body parts. Making another touch you or themselves with or on any of these body parts. Any intentional bodily contact in a sexual manner, though not involving contact with/of/by breasts, buttocks, groin, genitals, mouth or other orifice.<sup>3</sup>

### **F. Acts of Physical Aggression (including non-consensual sexual intercourse)**

Someone putting their finger, tongue, mouth, penis or an object in or on your vagina, when you don't want them to or cannot consent. Someone forcing you to perform oral sex or forcing you to receive oral sex. Someone forcing you to masturbate them.

### **G. Acts of sexual exploitation**

Inducing or attempting to induce incapacitation with the intent to rape, sexually assault another Student; non-consensual video or audio taping of sexual activity; allowing others to observe a personal act of consensual sex without knowledge or consent of the partner; engaging in voyeurism (e.g., Peeping Tom activity); distributing intimate or sexual information about another person without their knowledge or consent; knowingly transmitting an STI or HIV to another Student; prostituting another Student (monetary gain, privilege or power from the sexual activities of another Student); exposing one's genitals in non-consensual circumstances; inducing another to expose their genitals; sexually-based stalking and/or coercion may also be forms of sexual exploitation.

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<sup>1,2,3</sup> ATIXA, 8

## APPENDIX 2:

- A.** Prohibition against discrimination; exceptions. No person in the United States shall, on the basis of sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any education program or activity receiving Federal financial assistance, except that:

Classes of educational institutions subject to prohibition. in regard to admissions to educational institutions, this section shall apply only to institutions of vocational education, professional education, and graduate higher education, and to public institutions of undergraduate higher education;

- i. Educational institutions commencing planned change in admissions. in regard to admissions to educational institutions, this section shall not apply (A) for one year from the date of enactment of this Act [enacted June 23, 1972], nor for six years after such date in the case of an educational institution which has begun the process of changing from being an institution which admits only Students of one sex to being an institution which admits Students of both sexes, but only if it is carrying out a plan for such a change which is approved by the Commissioner of Education or for seven years from the date an educational institution begins the process of changing from being an institution which admits only Students of only one sex to being an institution which admits Students of both sexes, but only if it is carrying out a plan for such a change which is approved by the Commissioner of Education, whichever is the later;
- B.** Educational institutions of religious organizations with contrary religious tenets. this section shall not apply to an educational institution which is controlled by a religious organization if the application of this subsection would not be consistent with the religious tenets of such organization;
- C.** Educational institutions training individuals for military services or merchant marine. this section shall not apply to an educational institution whose primary purpose is the training of individuals for the military services of the United States, or the merchant marine;
- D.** Public educational institutions with traditional and continuing admissions policy. in regard to admissions this section shall not apply to any public institution of undergraduate higher education which is an institution that traditionally and continually from its establishment has had a policy of admitting only Students of one sex;
  - ii) Social fraternities or sororities; voluntary youth service organizations. this section shall not apply to membership practices—  
of a social fraternity or social sorority which is exempt from taxation under *section 501(a) of the Internal Revenue Code of 1954* [1986] [26 *USCS* § 501(a)], the active membership of which consists primarily of Students in attendance at an institution of higher education, or
  - iii) of the Young Men's Christian Association, Young Women's Christian Association, Girl Scouts, Boy Scouts, Camp Fire Girls, and voluntary youth service organizations which are so exempt, the membership of which has traditionally been limited to persons of one sex and principally to persons of less than nineteen years of age;
- E.** Boy or Girl conferences. this section shall not apply to--
  - i) Any program or activity of the American Legion undertaken in connection with the organization or operation of any Boys State

- conference, Boys Nation conference, Girls State conference, or Girls Nation conference; or
  - ii) Any program or activity of any secondary school or educational institution specifically for—
  - iii) The promotion of any Boys State conference, Boys Nation conference, Girls State conference, or Girls Nation conference; or
  - iv) The selection of Students to attend any such conference;
- F. Father-son or mother-daughter activities at educational institutions. this section shall not preclude father-son or mother-daughter activities at an educational institution, but if such activities are provided for Students of one sex, opportunities for reasonably comparable activities shall be provided for Students of the other sex; and
- G. Institution of higher education scholarship awards in "beauty" pageants. this section shall not apply with respect to any scholarship or other financial assistance awarded by an institution of higher education to any individual because such individual has received such award in any pageant in which the attainment of such award is based upon a combination of factors related to the personal appearance, poise, and talent of such individual and in which participation is limited to individuals of one sex only, so long as such pageant is in compliance with other nondiscrimination provisions of Federal law.
- H. Preferential or disparate treatment because of imbalance in participation or receipt of Federal benefits; statistical evidence of imbalance. Nothing contained in subsection (a) of this section shall be interpreted to require any educational institution to grant preferential or disparate treatment to the members of one sex on account of an imbalance which may exist with respect to the total number or percentage of persons of that sex participating in or receiving the benefits of any federally supported program or activity, in comparison with the total number or percentage of persons of that sex in any community, State, section, or other area: *Provided*, That this subsection shall not be construed to prevent the consideration in any hearing or proceeding under this title of statistical evidence tending to show that such an imbalance exists with respect to the participation in, or receipt of the benefits of, any such program or activity by the members of one sex.
- I. "Educational institution" defined. For purposes of this title an educational institution means any public or private preschool, elementary, or secondary school, or any institution of vocational, professional, or higher education, except that in the case of an educational institution composed of more than one school, college, or department which are administratively separate units, such term means each such school, college, or department.



### 13. Bullying and Incivility

Bullying is prohibited under the Code of Conduct and as such can be grounds for disciplinary action, up to and including suspension or expulsion. As defined in the Code, bullying is repeated and/or severe aggressive behavior likely to intimidate or intentionally hurt or diminish another person physically or mentally (that is not speech or conduct otherwise protected by the First Amendment). Bullying involves unwanted behavior among persons and can be interwoven with a real or perceived power imbalance. Bullying fosters or instigates an adverse and counterproductive environment, so as to interfere with or undermine learning, instruction, living environment, participation in a College-sponsored activity, and/or College operations.

Occasional differences of opinion or disagreements and conflicts concerning living arrangements, group assignments or workplace relationships usually do not constitute bullying. It is not bullying behavior for a supervisor to note a student employee's poor job performance and potential consequences within the framework of that department and College policies and procedures, or for a professor or academic program director to advise a student of unsatisfactory academic work and the potential for course failure or dismissal from the program if uncorrected.

The Office of Civil Rights of the U.S. Department of Education lists three types of bullying.

**1. Verbal bullying is saying or writing mean things.**

Verbal bullying includes: Teasing, Name-calling, Inappropriate sexual comments, Taunting, or Threatening to cause harm

**2. Social bullying, sometimes referred to as relational bullying, involves hurting someone's reputation or relationships.**

Social bullying includes: Leaving someone out on purpose, Telling other students not to be friends with someone, Spreading rumors about someone, Embarrassing someone in public, Leaving degrading or pictorial material about a person where others can see, Making threats, either explicit or implicit to the security of a person's job, position, or membership

**3. Physical bullying involves hurting a person's body or possessions.**

Physical bullying includes: Hitting/kicking/pinching, Spitting, Tripping/pushing, Taking or breaking someone's things, Placing objectionable objects among a person's belongings, Making mean or rude hand gestures, or Invading personal space after being asked to move away

All types of bullying described above can be anonymous. The perpetrator(s) can purposely withhold or disguise their identity. Bullying can also be conducted through use of the internet or other electronic means. This form of bullying is often called cyberbullying.

An individual who believes a student has engaged in bullying behavior should report the behavior to the Office of the Dean of Students, 843.953.5522. Students who believe that a staff or faculty member has engaged in bullying behavior towards them may follow the procedures listed under the Student Grievance Procedures.

If the bullying of students is based on gender, sexual orientation, gender identity or expression, age, race, color, religion, national origin, veterans' status, genetic information, or disability, or other legally-protected classifications it can also be reported to the Office of Equal Opportunity Programs and Minority Affairs at 843.953-5758. The Office of the Institutional Ombudsperson can provide guidance for determining whether behavior meets the definition of bullying, [ombuds@cofc.edu](mailto:ombuds@cofc.edu) or 843.953.5822

## 14. Parental Notification and Alcohol and Drug Violations

1. Achieving autonomy and acceptance of one's personal responsibility are student development goals promoted throughout every facet of collegiate life. Such goals are promoted within the Family Rights and Privacy Act (FERPA). In 1998, however, amendments to FERPA gave colleges and universities the option to notify parents or guardians of a student's violation of any federal, state, or local law, or an institutional disciplinary policy relating to the use or possession of alcohol or a controlled substance. The amendment clearly recognizes the cooperative partnership colleges have with parents and guardians that moves beyond enrollment to those times when intervention is a practical response to prevent the loss of a student's personal and collegiate goals.

2. In support of our mutual investment in the success of each student and the preservation of a climate conducive to living and learning, an official of the College will notify parents or guardians when a student under the age of 21 at the time of disclosure regarding the College's determination that the student violated federal, state or local law or College policy governing the use or possession of alcohol or a controlled substance.

## 15. Alcohol Policies

### 1. Residence Life and Housing

**1.1.** Approximately 85 percent of our residence hall population is not of legal age to purchase or drink alcoholic beverages. Accordingly, the following restrictions apply: a limited amount of beer and wine is allowed in residence halls and houses for students over 21. Where allowed, beer and wine must be in the private possession and control of the owner. All persons consuming alcohol must be of legal drinking age and are responsible for their behavior and actions. NO KEGS, LIQUOR OR CAFFEINATED ALCOHOLIC BEVERAGES are allowed in the residence hall system at any time.

Residential students are strongly encouraged to know the pertinent rules and procedures as listed in *The Guide to Residence Living*.

**2. Alcohol-Related Violations (possession, use, public intoxication, possession of multiple empty alcohol containers, etc.). The College of Charleston will impose on students the following sanctions and other sanctions for proven violations of its alcohol policies.**

**Responses from incidents that originate within the Residence Halls, On Campus or Off Campus.**

**2.1. First Violation** (Resolution by Residence Life and Housing staff/Student Affairs official)  
Sanctions may include, but are not limited to:

- A.** Receive a probation period or be placed on residence life probation for a set amount of time if a residential student and incident occurs within the residential system;
- B.** Have a parental/guardian notification letter sent concerning the violation;
- C.** Participate in an alcohol risk reduction program and/or assessment at Counseling and Substance Abuse Services. Fees will be charged; and/or
- D.** Educational activities.

Failure to complete first offense sanctions will result in a fine (\$150.00 or more) and other sanctions.

**2.2. Second Violation** (Resolution by Residence Life and Housing staff/Student Affairs official/Conduct Body) Sanctions may include, but are not limited to:

**A.** Be placed on probation, residence life probation or deferred disciplinary suspension (one more violation and student is suspended from enrollment) and possibly moved within or removed from residence life housing for a minimum of one semester, depending on the specific circumstances;

If a student is removed from residence life housing for disciplinary reasons full payment of the contract is due if a residential student and incident occurs within the residential system;

**B.** Have a parental/guardian notification letter sent concerning the violation;

**C.** Participate in an alcohol risk reduction program and/or assessment at Counseling and Substance Abuse Services or through an off-campus provider. Fees will be charged.

Failure to complete second offense sanctions will result in a fine (\$200.00 or more) and other sanctions unless student is on deferred suspension.

**2.3. Third Violation** (Resolution by Student Affairs official/Conduct Body) Sanctions may include, but are not limited to:

**A.** Be removed from residence life housing with full payment of the contract due if a residential student and incident occurs within the residential system;

**B.** Be placed on disciplinary suspension from the College for a minimum of one semester;

**C.** Have re-admission to the College dependent on successful completion of a pre-approved substance abuse counseling program; and

**D.** Have a parental/guardian notification letter sent concerning the violation.

### **3. Noise Violations and other Related Disruptive Behaviors –Responses for Off-Campus Incidences**

**3.1. First Violation** (Resolution by Student Affairs official) Sanctions may include, but are not limited to:

**A.** Receiving a warning or probationary period; and

**B.** Educational and restorative activity.

**3.2. Second Violation** (Resolution by Student Affairs official/Conduct Body) Sanctions may include, but are not limited to:

**A.** Be placed on probation or deferred disciplinary suspension for a minimum of one semester;

- B.** Have a parental/guardian notification letter sent concerning the violation if appropriate;
- C.** Educational and restorative activity;
- D.** Denial of on-campus housing and other privileges; and
- E.** Complete a pre-approved substance abuse/risk reduction program or assessment at Counseling and Substance Abuse Services or an off-campus provider. Fees will be charged.

Failure to complete second offense sanctions will result in a fine (\$200 or more) and other sanctions unless student is on deferred suspension.

**3.3. Third Violation** (Resolution by Student Affairs official/Conduct Body) Sanctions may include, but are not limited to:

- A.** Be placed on disciplinary suspension from the College for a minimum of one semester;
- B.** Have re-admission to the College dependent on successful completion of a pre-approved substance abuse counseling program; and
- C.** Have a parental/guardian notification letter sent concerning the violation if appropriate.

#### **4. South Carolina Scholarships – Hope, Life, Palmetto – and Violations of State Alcohol and Drug Laws**

Students who have been adjudicated delinquent or have been convicted or pled guilty or nolo contendere to any South Carolina alcohol or other drug-related misdemeanor offense more than once are ineligible for the scholarship for one academic year after the adjudication, conviction, or plea occurred. The student will lose eligibility the next academic year immediately following conviction and will lose the scholarship for the fall and spring terms.

## **16. Good Samaritan / Medical Amnesty Policy**

### **1. SUMMARY OF POLICY**

This Policy provides that any student who is in need of medical care during an alcohol or other drug-related emergency (as defined in Section 3.2 and from here forward shortened to AOD—alcohol and other drug), and who receives or actively seeks out such care in a timely fashion, may do so without fear of being subjected to Student Conduct action.

This policy only applies to College policies as outlined in the Student Code of Conduct. This policy does not impact any legal or judicial charges or proceedings.

This policy is intended for one-time use only by an individual student and is not intended to apply to students with repeat incidents of violations of our AOD policies.

### **2. PURPOSE**

Unfortunately, when AOD-related emergencies arise many students hesitate to contact Public Safety officials or healthcare professionals out of fear that disciplinary consequences may follow. The Good Samaritan/Medical Amnesty Policy will grant conditional amnesty from Student Conduct action for those

students in need of medical attention, as well as those students who call for assistance to aid another student, because of alcohol and/or drug abuse.

The purpose of the Good Samaritan/Medical Amnesty Policy is to encourage students to seek assistance when that student is in need of medical attention or when that student knows of another student in need of medical care due to an AOD emergency (an “AOD Related Medical Emergency”). Those who receive medical attention for their abuse of alcohol and/or other drugs will also receive education concerning their own habits so that they may make healthy decisions in the future.

### **3. DEFINITIONS**

**3.1 Conditional Amnesty** – Students who report an AOD-Related Medical Emergency in accordance with this Policy will not be subjected to formal student conduct action. As a condition for this courtesy, however, the student or students involved will be required to undertake a series of affirmative measures to redress any damages they may have caused and to receive one or more interventions to assist them in correcting unacceptable behavior.

Conditional amnesty granted under this Policy does not negate the laws and ordinances enforced by local, state, and federal law enforcement authorities. Nor will it excuse violations of other College policies. If any policy or law violation beyond alcohol and/or drug consumption and abuse are committed, conditional amnesty will not apply. Such other violations may include, but are not limited to, disorderly conduct, threats of harm to others, hazing, property damage, sexual Harassment/Abuse, alcohol and/or drug distribution, assault, and/or other crimes. Students who have been charged with such other violations in direct relation to the incident in which they pursue amnesty will not qualify for amnesty. Moreover, any organization providing alcohol and/or other drugs to students during an event or gathering at which multiple students become ill will not qualify for amnesty.

This Policy will only apply in cases under the jurisdiction of Residence Life and the Office of the Dean of Students.

**3.2 AOD-Related Medical Emergency** – AOD-Related Medical Emergencies include alcohol overdose and alcohol poisoning and/or drug overdose and drug poisoning that warrant immediate medical attention to protect the health of the student or others. Signs of AOD-induced distress may include, but are not limited to, one or more of the following:

- A.** Unresponsiveness to shouting and vigorous shaking;
- B.** Skin that is pale, clammy, bluish, or blotchy;
- C.** Depressed respiration, lapses in breathing;
- D.** Mental confusion, memory problems, unusual behavior, stupor, unconsciousness, or coma;
- E.** Dizziness, fainting or sudden changes in blood pressure;
- F.** Rapid heartbeat, seizures, convulsions, or rigid spasm
- G.** Vomiting while asleep or unconscious coupled with failure to awake.

**3.3 Medical Attention** – In order for a student to qualify for conditional amnesty, he/she must receive or actively seek out medical attention. This may include a range of efforts evidencing an unequivocal intention to receive medical help such as a voluntary examination by College of Charleston First Responders/EMS, contacting local EMS, or seeking transportation to or visiting

a hospital for more intensive care. It also includes asking for the assistance of Student Health Services. A student will qualify for conditional amnesty only if the student makes no effort to resist the help of the College, local emergency staff, or healthcare clinicians. Medical intervention must be sought at the time of the observed conditions that give rise to a reasonable suspicion of alcohol and other illegal drug use.

**3.4 Helper** – A helper is any student or student organization who seeks help for a student suffering from an AOD overdose or poisoning. Although helpers are appreciated and encouraged to take action if they see a student in need, their amnesty is also conditional. Helpers that are found to have committed other violations of law or College policies such as hazing (see Section 3.1 above) are held accountable for their actions. They will not be eligible for amnesty and may receive student conduct sanctioning as a result of their infractions. Amnesty for individual helpers only applies to College policy and not to local, state, or federal law enforcement processes. If the amnesty incident is connected to a hazing incident, the student organization will be charged following student conduct procedures.

## **4. PROCEDURES**

**4.1 Assignment of a Conduct Officer** – In the event that an AOD- Related Medical Emergency should arise, the Office of Student Affairs (the “Office”) will be notified. Thereafter, a Conduct Officer will be assigned by the Office to the parties involved. The Conduct Officer may be a Residence Life and Housing Official or a Student Affairs official. Each student will be sent a written notice that he/she must meet with the assigned Conduct Officer for a conversation.

**4.2 Decision** – The assigned Conduct Officer(s) will make the decision of whether the concerned student(s) qualifies for conditional amnesty under this Policy after giving full consideration to the circumstances of the case.

**4.3 Assignment of Amnesty Conditions** – Should the student(s) qualify for conditional amnesty the Conduct Officer(s) will evaluate the case and surrounding circumstances in order to assign appropriate conditions as alternatives to sanctioning. These conditions will be educational or therapeutic in nature, designed to benefit the student and improve his/her future decision making. These conditions will most likely include mandatory sessions with a professional in the Office of Counseling and Substance Abuse Services (CASAS) and possible parental notification. All service fees for assigned substance abuse counseling will be waived if the student qualifies for conditional amnesty.

**4.4 Failure to Complete Conditions** – If the student fails to agree to the amnesty conditions, or fails to satisfactorily complete the assigned conditions deemed necessary by his/her Conduct Officer, conditional amnesty will not be given, and any amnesty previously given shall be revoked. Student conduct charges will be filed. Thereafter, the case will be turned over to the Office of Residential Student Rights and Responsibilities of the Department of Residence Life or the Office of the Dean of Students where it will be subject to conduct processes. This will most likely result in the creation of a formal conduct record of the incident in question and, if culpability is found, may require the imposition of student conduct sanctions.

**4.5 Documentation and Record Keeping** – If a student qualifies for conditional amnesty, documentation or evaluation of the case will not be placed in any student conduct record. A record, however, will exist in the Division of Student Affairs that the incident transpired, but this record is not normally reportable to outside employers, agencies or other higher education institutions without the permission of the student. However, some background checks for local, state and/or Federal employment may require full disclosure and release of student records, in which case, the record of the incident may be reported. In addition, the

College may be served with a subpoena or other legal process that requires that the College produce the record. In such cases, the College will comply with all applicable provisions of law. In addition to the foregoing, the record will exist in the Division of Student Affairs to track the student's behavior should there be another incident of a similar nature.

#### **4.6 Amnesty for Multiple Alcohol-Related Medical Emergencies**

##### **A. For those needing assistance –**

This policy is intended for one-time use only by any individual student. It is intended to serve as a wake-up call and a way for students to improve their decision-making skills as well as to learn healthy habits of living. Amnesty, under this Policy, is not considered a right. It should be viewed as an opportunity and is not to be abused by those who break rules of conduct on repeated occasions. Accordingly, any student needing medical attention for an AOD Related Emergency on more than one occasion may not receive amnesty even if all other terms and conditions of this Policy are met. The granting of any form of amnesty remains a matter of discretion with the Division of Student Affairs.

##### **B. For Helpers –**

Helpers, or those who seek help for the endangered student, are not limited to only one use of the Good Samaritan/Medical Amnesty Policy. It is expected that members of the College of Charleston community will always make an effort to help a fellow student that is in need even if they have been using alcohol and/or other drugs themselves. Notwithstanding the foregoing, if a Conduct Officer has reasonable suspicions that the Good Samaritan/Medical Amnesty Policy is being abused in any way, he/she may hold in abeyance the amnesty to a helper until an investigation of the incident is completed.

### **5. FUTURE REVISIONS**

This Good Samaritan/Medical Amnesty Policy can be revised at any time in accordance with the College's Campus Wide Policy Making Procedures. Issue Date: 10/30/2015

## **17. Procedures for the Use of Alcohol on Campus or During College Sponsored Events**

### **1. PURPOSE**

These Procedures describe the process that will be used by the College to review requests for allowing alcoholic beverages to be available during events that are either held on College Property or are sponsored by the College (each individually referred to as "an "Event". When the term "Event" is used in these Procedures it means any College gathering where alcohol will be available). The Procedures are not intended to change the existing substantive policies dealing with the permitted uses of alcohol on campus or on College owned or rented property ("College Property"). Those policies are recited in the *Employee Drug and Alcohol Abuse Policy* (for faculty and other employees) and in the *Compass* and other publications directed to students (for students and student organizations).

#### **1.1 Events include gatherings that are --**

- A.** Sponsored by the College or an approved College organization to take place on or off College Property;

- B. Advertised or promoted using the name and/or resources of the College;
- C. Held off College Property, but using student fees or other College resources to finance the Event; or
- D. Held on College Property by third-parties.

## 2. IDENTIFICATION AND RANKING OF RISKS

### 2.1 Categories

The purposes for an Event can be diverse and may include such matters as raising funds for the College, enhancing the College's public image, hosting Alumni gatherings or other cultural, social or professional meetings, or merely providing a meeting place or performance space for third-parties not affiliated with the College. In general, however, these Procedures recognize three different types of entities that may host an Event. The types of entities that may host an Event are categorized as follows:

- A. Affiliate or Third-Party Sponsored Events: These Events could be hosted by the College Foundation, the College Alumni Association or non-affiliated third-parties such as a business, a non-profit organization or other legal entity.
- B. Student Sponsored Events: These Event would include those sponsored by an approved student organization, such as a sorority or a fraternity, as well as, any other approved group or organization of students.
- C. College Employee or College Sponsored Events: These Events would be hosted by the President, Board of Trustees, the Faculty Senate, a School or a department, a College manager, or any recognized academic or employee unit or organization.

### 2.2 Risk Assessment

When determining the risk of alcohol abuse associated with an Event, College reviewing authorities will consider at least the following factors:

- A. the location of the Event;
- B. the number of underage students or other underage persons who are expected to be in attendance as guests;
- C. the number of underage persons who will have access to the Event by, for example, working as servers or volunteers;
- D. the sponsor of the Event;
- E. the history of the Event and of the conduct of participants during the Event;
- F. the estimated number of total guests to attend the Event;



- G. the primary purpose of the Event; and
- H. the publicity surrounding the Event and/or the public perception of the Event.

### **2.3 Standards**

The considerations and standards used by the College to review an application for an Event shall include the following:

- A. The College will not approve an Event if, in the exercise of its sole discretion, it has determined that holding the Event will present an unreasonable risk to the health or safety of the College community and/or to the property of the College, or that the Event will be conducted in a way that would portray the College or the members of the College Community in a false light or otherwise subject it or them to public ridicule or disgrace.
- B. The higher the risk assessment, the more stringent shall be the requirements of the *Alcohol Management Plan* (see 3.3).

## **3. APPROVAL PROCESS**

**3.1.** All sponsors of Events must complete and submit the appropriate approval form to the College office having management responsibility of the College site. Sponsors of Affiliate or Third-Party Sponsored Events, Student Sponsored Events, or College Employee or College Sponsored Events utilizing College owned or rented property shall complete the form entitled Event Planning and Notification.

**3.2.** If any alcohol will be available at a student sponsored Event, there shall be a conclusive presumption that underage students will be in attendance.

**3.3.** An Alcohol Management Plan attached to the Form described in section 3.1 shall be required for every Event where alcohol will be served. Depending on the risk assessment made pursuant to Section 2.2, the alcohol management plan shall address the following issues with the specificity needed to adequately address the perceived risk:

- A. how the organization will prevent underage persons from having access to alcohol;
- B. the type and amount of alcohol that will be available at the Event;
- C. the type and amount of food that will be served;
- D. the starting time and ending time of the Event;
- E. the Event security that will be provided by the organization members themselves;
- F. the number of police requested from College Public Safety, or if the Event is to be held off campus, a description of the security available; and

- G. if a Student Sponsored Event, appropriate acknowledgement that Public Safety will contact the Student Affairs staff member on-call if a police action is required or similar serious or exigent circumstance arises.

**3.4.** In addition to any other Form that may be required to rent or use a College facility or to rent or use a site not located on College Property (if any), the Event Planning and Notification Form, described in Section.3.1, where alcohol will be available must be pre-approved by the Department of Public Safety before the Event may be held. In addition to the requirements of the preceding sentence,

- A. all Forms for Student Sponsored Events, including those prepared by recognized student organizations, must also be pre-approved by the Office of Student Life, The Graduate School or Office of Greek Life, as appropriate; and
- B. all Forms for other than student Events where alcohol will be available shall also be pre-approved by the College's Director of Events or Sponsoring Department.

#### **4. ON CAMPUS ALCOHOL SERVICE PROVIDERS**

Notwithstanding any other provision of these Procedures to the contrary, the College's Director of Events is authorized to review the licensure of any alcohol service provider that is named for a particular Event. The Director shall also issue such guidance as may be appropriate, from time to time, to promote the safe use of alcohol during approved Events including, but not limited to, the training of alcohol servers. The Director will act for the Office of the President in all such matters.

#### ***ADVERTISING AND SANCTIONS. THIS SECTION IS SEPARATE FROM THE ABOVE POLICY AND APPLIES ONLY TO STUDENT ORGANIZATIONS.***

##### **1. ADVERTISING OF STUDENT ORGANIZATION-SPONSORED EVENTS WHERE ALCOHOLIC BEVERAGES WILL BE CONSUMED.**

- 1. Advertising of student organization-sponsored events where alcoholic beverages will be consumed must be consistent with the educational philosophy of the College of Charleston and follow these conditions:
  - A. Advertisement for any event where alcoholic beverages are being served must note the availability of non-alcoholic beverages and food as prominently as the alcoholic beverages.
  - B. The message conveyed in the event promotion must not encourage the use of alcohol.
  - C. Publicity must not convey that consumption of alcohol is the purpose or reason for the event.
  - D. Promotion must not refer to the amount/quantity of alcohol to be present
  - E. Advertisements for events must not portray drinking as a solution to personal or academic problems or as necessary for social, sexual, or academic success.
  - F. Alcoholic beverages must not be provided as awards, door prizes, or giveaways to individuals or campus organizations.

##### **2. SANCTIONS**

**2.1.** Violations of these policies on or off-campus will be subject to the following responses for student organizations:

**A. First Violation - Sanctions may include, but not limited to:**

- i. Group is on social/event suspension for minimum of one month. The exact time period is to be determined by the Director of Student Life or Director of Greek Life.
- ii. Group executive board must schedule and attend a meeting with the Campus Substance Abuse Prevention Coordinator to develop a risk reduction plan.
- iii. Social/event suspension remains in place until meeting and plan are completed.
- iv. Failure to comply with sanctions for the first offense may result in sanctioning as imposed under a second violation.

**B. Second Violation - Sanctions may include, but not limited to:**

- i. Loss of campus privileges including access to the organization account for a minimum of three months, excluding summer months.
- ii. Entire organization must attend a 6-hour alcohol risk reduction seminar (deadline to be set by the disciplinary administrator).
- iii. Must pay a \$500.00 fine to the Office of Student Life or Greek Life or plan an alcohol-free social event for the entire student body on a weekend.
- iv. Letter of notification to be sent to the national organization, sponsoring agency or academic department.
- v. Failure to comply with sanctions for the second offense may result in sanctioning as imposed under a third violation.

**C. Third Violation**

- i. The sanction for a third violation is suspension of recognition by the College for a time period consistent with the level of infraction up to a permanent suspension from the College of Charleston campus. This will be determined by the Director of Student Life or Director of Greek Life in conjunction with the Dean of Students and/or Executive Vice President for Student Affairs.

## **18. Student Tailgate Policy**

### **1. SUMMARY OF POLICY**

In an effort to continue to develop student life at the College of Charleston and promote an increased sense of institutional pride and school spirit, this policy has been created for use of the space and facilities adjacent to the Carolina First Arena for student tailgates and events held prior to athletic contests.

#### **1.1 PURPOSE**

The purpose of the Student Tailgate Policy is to assist student organizations and/or on-campus departments in the coordination of tailgates and activities and ensure that existing institutional policies related to event planning and risk management are appropriately applied.

#### **1.2. DEFINITIONS**

- A. **Facilities** – the facilities that will be available for use for student tailgates will include the area adjacent to the student entrance to the Carolina First Arena and the Practice Gym.
- B. **Reservable Space** – the facilities included in this policy are to be considered reservable space. Use of the space for tailgates activities must be scheduled in advance through the Director of Operations for Athletics.
- C. **Sponsoring Organization** – recognized student organization or on-campus department hosting the event.
- D. **Amplified Sound** – use of a public address system and/or speakers to broadcast information or music

### 1.3. PROCEDURES

- A. **Limitations of use** – tailgates and pre-game activities must be limited to the area adjacent to the student entrance to the Carolina First Arena and the Practice Gym. Reservation of the space is limited to recognized student organizations and on-campus departments for student-only events. Individual tailgating will not be permitted.
- B. **Reservation/ Preparation of Space** – sponsoring organizations must reserve the facilities no less than one week prior to the date of the proposed event. Reservations will be coordinated by the Director of Operations for Athletics. Athletics will provide and install the floor covering in the Practice Gym prior to the scheduled event. In the event that no activity is scheduled, the Practice Gym will not be available for pre-game activities and will remain locked.
  - I. **Occupancy** – Attendance at events in the facilities will be limited to occupancy rates established by the Fire Marshal.
  - II. **Responsibilities of Sponsoring Organizations** – student organizations or on-campus departments hosting the event are responsible for providing all staffing and equipment for the proposed activity (this includes security personnel, sound equipment, tables, trash cans, recycling bins, etc.) as well as set-up and clean-up related to the activity.
  - III. **Entry/Exit** – A valid College of Charleston student identification card will be required to enter the event or activity. Individuals that leave the area prior to the end of the scheduled activity will be denied re-entry and will be ineligible for access to the athletic contest. All student participants will be required to enter the Carolina First Arena through the designated student entrance.
  - IV. **Use of Alcohol** – The College of Charleston’s alcohol policy shall regulate any use of alcohol at pre-game activities within the facilities. The Authorization to Host a Student Event form must be completed and submitted to the Office of Student Life for review no less than two weeks (fourteen business days) prior to the date of the proposed event. Individuals determined to be inebriated or unable to care for themselves will be denied entry to the activity and/or to the athletic contest.

- V. Duration of Tailgates/Activities** – Pre-game activities will be limited to two (2) hours. Activities must end 15 minutes prior to the start of the scheduled athletic contest.
- VI. Use of Amplified Sound** – Due to the proximity of the facilities to local business and residences, amplified sound must be limited to the Practice Gym.
- VII. Open Flames/Personal Grills** – No open flames or personal grills may be used.
- VIII. Damages** – Sponsoring organizations are responsible for all costs associated with any damage and/or repairs that result from the scheduled activity.

#### **1.4. FUTURE REVISION**

This Student Tailgate Policy can be revised at any time in accordance with the College's *Campus Wide Policy Making Procedures*.

## **19. Drug Policy**

### **1. Introduction**

The College of Charleston is concerned with both the welfare of the College community and the academic and personal development of each student. The College strives to create a healthy environment where the illegal and/or improper use of drugs does not interfere with learning, performance, or development. Abuse of drugs disrupts this environment and places at risk the lives and well-being of the members of the College community, as well as the potential for students to contribute to society. It is important for all members of the college community to take responsibility for preventing the illegal and/or improper use of drugs from negatively affecting the community's learning environment and the academic, physical, and emotional well-being of its students. Since there are numerous means by which the use of drugs may adversely affect both students and the College community, it is important that the College issue to all students a clear statement of policy concerning the illegal and/or improper use of drugs.

**1.1.** This policy is intended to accomplish the following:

- A.** To promote a healthy and safe learning environment.
- B.** To demonstrate the commitment of the College to the provision of:
- C.** Education and prevention services designed to help prevent illegal and/or improper use of drugs.
- D.** Early intervention and referral services related to the illegal and/or improper use of drugs.
- E.** To encourage and facilitate the use of treatment and support services by those students who seek or are in need of assistance.

**F.** To define expectations for student behavior with respect to the illegal and/or improper use of drugs.

**G.** To identify appropriate disciplinary procedures for those students who engage in illegal and/or improper drug-related behaviors.

## **2. Education, Prevention, Intervention, and Treatment**

**2.1.** The College's first obligation in dealing with drug problems is to educate the College community. This obligation is addressed by a variety of prevention and education programs which are offered, including formal and informal classes, lectures, discussions, and activities that address both drug-abuse prevention and drug-related problems. Students are encouraged to participate in the numerous campus organizations and activities which promote drug-free experiences. A list of student organizations is available in the Stern Student Center and at [www.studentlife@cofc.edu](mailto:www.studentlife@cofc.edu). Current information about the risks and statistics related to drug use is available to students. Educational efforts also address personal intervention skills to help members of the College community to better respond to students demonstrating problems related to the use of drugs. As drug abuse is a societal issue, the College will also conduct research and offer expertise in this area as a public service.

**2.2.** A second responsibility of the College is to promote an atmosphere where students who have a problem with drug use will have the opportunity to seek help. Each student seeking assistance will be provided an opportunity for an individual diagnostic assessment and will be offered information on, or referral to appropriate services which address the improper use of drugs, including the misuse of prescription or over-the-counter drugs. Available services may include educational activities, structured groups, counseling, and self-help groups. Some of these services are offered on campus at no cost to the student. The cost of off-campus services is the responsibility of the student.

- A.** Students may receive assessment, counseling, and educational services from the Office of Substance Abuse Services, (Robert Scott Small Building, 3<sup>rd</sup> floor, 953-5640), or from off-campus treatment providers.
- B.** This policy is not intended to create obligations or restrictions which may interfere with the confidential nature of counseling, clinical, or therapeutic relationships. Confidentiality will be maintained in accordance with state and federal laws.

## **3. Violations**

**3.1.** This policy prohibits, on or off campus:

- A.** The unlawful manufacture, intent to distribute, distribution, dispensation, trafficking, possession, attempted purchase, or use of illegal drugs or controlled substances\*, including prescription medications and/or use of non-anabolic steroids.
- B.** The possession or sale of drug paraphernalia (such as roach clips, water bongs, home-made bongs, glass pipes, cocaine spoons).
- C.** The manufacture, intent to distribute, distribution, dispensation, trafficking, possession, attempted purchase or use of imitation ("look alike") or synthetic substances including but not limited to substances such as K2, Spice, Bath Salts, etc.

**D.** The manufacture, intent to distribute, distribution, dispensation, trafficking, possession, or use of psychoactive plant which produces hallucinogenic effects including but not limited to substances such as Salvia.

\* The term “controlled substances” when used in this policy shall refer to those drugs and substances whose possession, sale, or delivery results in criminal sanctions under South Carolina law.

**3.2.** As citizens, students have responsibility for knowing of and complying with the provisions of state law referenced above. Any student who violates any of these laws is subject to prosecution and punishment by the civil authorities as well as to disciplinary procedures conducted by the College which may precede criminal or civil proceedings. It is not “double jeopardy” for both the civil authorities and the College to proceed to sanction a person for the same specified conduct.

#### **4. Sanctions**

**The College of Charleston will impose on students the following sanctions and other sanctions for proven violations of its drug policies.**

The College considers any violation of the drug policy to be a serious offense. The College will respond to all reported violations of this policy in accordance with the disciplinary procedures published in the *Student Handbook*. Residential students will be referred to the Dean of Students for resolution. The sanctions imposed by the College for students found responsible for drug-related violations follow:

##### **4.1. Distribution, dispensation, trafficking, or manufacturing illegal drugs and/or controlled substances**

**A.** Prior to hearing -- Because acts such as the manufacturing, distributing, dispensing and trafficking of illegal drugs and controlled substances are threats and dangers to both the health and safety of the community, when there is reason to believe, based on available facts, that the student represents an immediate threat to the safety, health, or welfare of herself/himself, other persons, or property, the College may immediately suspend alleged offenders prior to a hearing, in accordance with policies as published in the *Student Handbook*.

**B.** Following the hearing – For students found responsible for manufacturing, distribution, dispensing, or trafficking of illegal drugs (including marijuana) and/or controlled substances, the College’s response will be:

- i)** At a minimum disciplinary suspension for two years or more and at a maximum expulsion in accordance with disciplinary procedures as published in the *Student Handbook*.
- ii)** Removal from residence life housing with full payment of the contract due, if a residential student and incident occurred within the residential system.
- iii)** Have re-admission to the College dependent on successful completion of a pre-approved substance abuse counseling program.
- iv)** Have a parental/guardian notification letter sent concerning the violation.

##### **4.2. Possession with intent to distribute**

For students found responsible for possession with intent to distribute illegal drugs (including marijuana) and/or controlled substances, the College's response will be:

- A. At a minimum disciplinary suspension for one year and at a maximum disciplinary suspension for two years or more in accordance with disciplinary procedures as published in the *Student Handbook*.
- B. Removal from residence life housing with full payment of the contract due, if a residential student and incident occurred within the residential system.
- C. Have re-admission to the College dependent on successful completion of a pre-approved substance abuse counseling program.
- D. Have a parental/guardian notification letter sent concerning the violation.

#### **4.3. Possession and/or use of illegal drugs and illegal possession and/or use of controlled substances**

For students found responsible for the possession/use of illegal drugs (including marijuana weighing one ounce or over) and/or illegal possession/use of controlled substances (including the illegal possession/use of prescription medications and certain synthetic drugs), the College's response will be:

- A. Placed on disciplinary suspension from the College.
- B. Removal from residence life housing with full payment of the contract due, if a residential student and incident occurred within the residential system.
- C. Have re-admission to the College dependent on successful completion of a pre-approved substance abuse counseling program.
- D. Have a parental/guardian notification letter sent concerning the violation.

#### **4.4. Possession and/or use of marijuana –weighing under one ounce –**

For students found responsible for *only* the possession and/or use of marijuana, for a **first** offense the College's response will be:

- A. Placed on deferred disciplinary suspension from the College for not less than one semester. Deferred suspension means that the disciplinary suspension is held in abeyance as long as all other sanctions are completed by stated deadlines, all illegal substance screens/tests are negative, and there are no other violations.
- B. Participate in a drug and alcohol risk reduction program and/or assessment at Counseling and Substance Abuse Services. Fees will be charged.
- C. Participate in periodic drug and alcohol testing at the student's expense for not less than one semester.
- D. Educational activities.
- E. Have a parental/guardian notification letter sent concerning the violation.



#### **4.5. Possession and/or use of marijuana –weighing one ounce or less—**

For students found responsible for *only* the possession and/or use of marijuana, for a **second** offense the College's response will be:

- A.** Removal from residence life housing with full payment of the contract due, if a residential student and incident occurred within the residential system.
- B.** Placed on disciplinary suspension from the College.
- C.** Have re-admission to the College dependent on successful completion of a pre-approved substance abuse counseling program.
- D.** Have a parental/guardian notification letter sent concerning the violation.

#### **4.6. Possession and/or sale of drug paraphernalia --**

For students found in violation for the possession and/or sale of drug paraphernalia, the College's response will be:

- A.** Determined on a case-by- case basis in accordance with disciplinary procedures as published in the *Student Handbook*.

#### **4.7. The manufacture, intent to distribute, distribution, dispensation, trafficking, possession, or use of imitation ("look alike") or synthetic substances including but not limited to substances such as K2, Spice, etc., the College's response will be:**

- A.** Determined on a case-by- case basis in accordance with disciplinary procedures as published in the *Student Handbook*.

#### **4.8 The manufacture, intent to distribute, distribution, dispensation, trafficking, possession, or use of psychoactive plant which produces hallucinogenic effects including but not limited to substances such as Salvia, the College's response will be:**

- A.** Determined on a case-by- case basis in accordance with disciplinary procedures as published in the *Student Handbook*.

#### **4.9 Eligibility for Financial Aid**

Students found in violation of the drug laws jeopardize their ability to receive federal financial aid, College of Charleston scholarships and South Carolina Scholarships for which they might otherwise be eligible. Students can regain their eligibility to receive federal financial aid. Please contact the Office of Financial Aid and Veterans Affairs for further information.

#### **4.10. Drug-Free Workplace Policy**

The Federal Drug-Free Workplace Act of 1988 prohibits the unlawful manufacture, distribution, dispensation, possession, or use of illegal drugs in the workplace and provides for sanctions against faculty, staff, and the student employees, permanent or temporary, who violate this policy. Pursuant to federal and state law, the policy also requires grant or contract employees to notify the employer of any criminal drug statute conviction for a violation occurring in the workplace no later than five days after the conviction. Any student employee who violates the drug-free workplace policy is subject to prosecution and punishment by civil authorities, as well

as to disciplinary procedures by the College and may also be terminated from his or her position of employment by the supervising department.

## **20. Honor Board Composition and Duties**

**1.** Eight faculty members, five staff members, and at least twenty students constitute the Honor Board pool.

**1.1.** A subset of the faculty and staff members of the Honor Board pool will undergo training specific to preparation to hear sexual misconduct cases.

**1.2.** Honor Boards assigned to hear alleged violations and/or to design sanctions under the Honor Code and the Code of Conduct shall consist of one faculty member, one staff member, and three students, except in sexual misconduct cases. In sexual misconduct cases an Honor Board shall consist of three faculty or staff members.

**1.3.** Disciplinary Panels assigned to hear alleged violations and/or to design sanctions shall consist of one faculty or staff member and two students.

**1.4.** The student membership of the Honor Board should be representative of the student body of the College. Student membership is voluntary and there are no term limits. The Honor Board, with assistance of the Student Government Association and Student Affairs officials, annually selects new members to replace graduating student members, to replace student members dismissed for insufficient grade point average and to maintain the representative nature of the board. The Office of the Dean of Students recruits and selects the five staff members. The Faculty Senate nominates and selects the eight faculty members and eight Honor Advisors.

**1.5.** Any member who is involved in any way with a hearing before the Board will be disqualified and replaced by an appropriate alternate. Any student who has been called before an Honor Board or Disciplinary Panel may challenge the impartiality of any member.

### **2. Honor Board Duties**

**2.1.** To enforce and promote the Honor System of the College of Charleston.

**2.2.** To review periodically the Honor Code and Code of Conduct and make recommendations to the administration.

**2.3.** To hear cases involving alleged violations of the Honor Code and/or the Code of Conduct.

**2.4.** To recommend sanctions in cases involving violations of the Honor Code and/or the Code of Conduct.

**2.5.** To call an Appellate Board when instructed by the Executive Vice President for Student Affairs. Neither the faculty or staff members nor the student may have sat on the original hearing that is being appealed.

**2.6.** To provide student members for grievance hearing panels.

**2.7.** To hear Student Government Association election appeals, impeachment of officers of student organizations, and the requests for conduct review of the actions of the Student Government Association (student members only).

2.8. To provide student representatives to the student government (undergraduate) election commission.

## **21. Procedures for the Reporting of Honor Code, Student Code of Conduct, and/or other policy Alleged Violations**

### **1. Reporting Alleged Violation(s)**

1.1. Any member of the college community with knowledge that a student, student group or student organization has violated the Honor Code, the Student Code of Conduct, and/or other policy should report the violation(s) as soon as reasonably possible to the Office of the Dean of Students. The report should be in writing and should contain:

A. The name of the student, student group, or student organization suspected of the violation(s).

B. All details of the suspected violation(s), including the date, which are known to the person reporting it.

C. The names of potential witnesses to the suspected violation.

1.2. Any person not a member of the College community may also report suspected violations of the codes and should follow these same procedures as set out above.

1.3. Student groups and student organizations may only be charged when the violation(s) arises out of or in connection with an organized group event.

1.4. The alleged violation(s) must have taken place or have been detected within one month previous to the report, unless there is evidence of concealment, the act or acts in question were later determined to be part of a pattern of harassment, or there is evidence of extenuating circumstances which have caused a delay in reporting, in which case(s) this period of limitation will not apply. NOTE: THIS REPORTING TIME LIMIT DOES NOT APPLY IN CASES INVOLVING ALLEGATIONS OF SEXUAL MISCONDUCT.

### **2. Role of Student Affairs Officials**

2.1. An authorized official within the division of Student Affairs will discuss the suspected violation(s) with the person reporting it, with other persons having pertinent knowledge, with other College officials, and with the College's Office of Legal Affairs when the authorized official deems it necessary in order to determine whether or not there is a reasonable basis for the allegation(s).

2.2. If, after proper consultation, the Student Affairs official determines that there is not a reasonable basis for the allegation(s), it will inform the person who reported the suspected violation of that fact and take no further action. If, after proper consultation, the Student Affairs official determines that there is a reasonable basis for the allegation, it will notify the respondent individual(s) of the allegation(s).

2.3. This notification shall contain the following:

A. The specific violation(s) of the Honor Code, the Student Code of Conduct, Alcohol Policy, Drug Policy, and/or other policy with which the individual(s) is being charged.

**B.** Notification that the respondent must make an appointment within forty-eight (48) hours and present him/herself to the Student Affairs official to review the allegation(s) and case file.

**2.4.** Failure to comply with the procedures as set forth in “Reading of the Allegation(s)” will result in said procedures being carried forth in the absence of the respondent.

### **3. Academic Dishonesty**

**3.1.** When the allegation is some form of academic dishonesty, the instructor of the course in which the violation is alleged to have occurred will be listed as the complainant and a witness in the notice, in that it is anticipated that the expertise and judgment of that instructor will be relevant and important to the consideration of the case. If the allegation is plagiarism and materials available to the Dean of Students make the allegation self-proving, the person reporting the violation, upon request, may remain anonymous and not be listed as a witness in the notice. This exception usually will not apply when the person reporting the violation is the faculty member for the course involved, for again, the expertise and judgment of the instructor may well be necessary to a consideration of the case.

**3.2.** In the case of alleged academic dishonesty, the student’s grade in the assignment and/or course will be carried as an “incomplete” until the charges are resolved. After the delivery of the decision (for Class 1, Class 2 or Class 3 Honor Code violations, see Appendix A), the instructor will assign a grade based on the decision reached by the Board/panel/official. In cases of academic dishonesty, the instructor of the course will also receive a copy of the decision.

**4. Interim Suspension:** Whenever there is evidence that the continued presence of the student on the campus poses a substantial threat to others or the stability and continuance of normal college functions, the Dean of Students or his/her designee may suspend the respondent student for an interim period pending disciplinary proceedings or medical evaluation, such interim suspension to become immediately effective without prior notice. During the interim suspension, a student shall be denied access to the residence halls and/or campus (including classes) and/or all other College activities or privileges for which the student might otherwise be eligible, as the Dean of Students or his/her designee may determine to be appropriate. A student suspended on an interim basis will be given an opportunity to appear personally before the Dean of Students or other appropriate official within five (5) working days from the effective date of the interim suspension for a hearing only on the following issues:

**4.1.** The reliability of the information concerning the student’s conduct.

**4.2.** Whether the conduct and surrounding circumstances reasonably indicate that the continued presence of the student on the campus poses a substantial threat to others or to the stability and continuance of normal college functions.

## **22. Statement of Rights of the Complainant and Respondent**

**1.** Each case of an alleged Honor Code, Student Code of Conduct and/or other policy violation will be dealt with in a manner which scrupulously protects the rights of the complainant and respondent. Just as the College of Charleston Honor System demands that students maintain high standards of integrity, it also demands that students receive fair and impartial treatment in every situation. Any College of Charleston student bringing forth an allegation or accused of violating the Honor Code, Student Code of Conduct and/or other policy has the following rights:

**1.1.** The right to have all proceedings and information relating to a pending or disposed of allegation kept private to the maximum extent possible, consistent with FERPA.

- 1.2. The right to full consultation. The complainant and respondent may seek advice concerning the case from whomever they wish, including attorneys and honor advisors.
- 1.3. The right to choose his/her honor advisor.
- 1.4. The right to have at least five (5) working days from the notice of the hearing before the Honor Board/panel/official to prepare his/her case, unless such notice is waived.
- 1.5. The right to be present during the entire hearing before the Honor Board/panel/official, except for deliberations.
- 1.6. The right to cross-examine all witnesses giving evidence about the allegation unless the evidence has been allowed in affidavit form for good cause shown as determined by the Dean of Students. EXCEPTION: IN CASES OF ALLEGED SEXUAL MISCONDUCT ALL QUESTIONING IS DONE BY THE CONDUCT OFFICIAL OR PRESIDING OFFICER AND MEMBERS OF THE CONDUCT BODY.
- 1.7. The right to challenge Honor Board/panel members/official on the ground of personal bias.
- 1.8. The right to examine all physical or documentary evidence in the case file maintained in the Office of the Dean of Students and to present evidence on his/her own behalf.
- 1.9. The right to request witnesses who are reasonably available to appear on his/her own behalf.
- 1.10. The right to remain silent without adverse inference.
- 1.11. The right to the presumption of not having violated a code and/or policy, to have the burden of proof borne by the College or the complainant, and to have violation(s) proven by a preponderance of the evidence.
- 1.12. The right to make either a written or oral statement.
- 1.13. The right to review the recording of the hearing in the Office of the Dean of Students if there is an appeal. The recording shall be the property of the College.
- 1.14. The right to a written decision of the Honor Board/panel/official from the Office of the Dean of Students within two working days of the decision.
- 1.15. The right to have the procedures for the reporting and disposition of Honor Code, Student Code of Conduct, and/or other policy violations followed by all parties.
- 1.16. The right to waive the aforementioned rights.

### **23. Procedures for the Disposition of Honor Code, Student Code of Conduct including the Alcohol Policy, Drug Policy and/or Other Policies**

*THE PROCEDURES OUTLINED IN THIS SECTION ARE INTENDED TO AID STUDENT AFFAIRS OFFICIALS AND THE HONOR BOARD IN THEIR EFFORT TO ASCERTAIN THE FACTS OF MATTER AND TO REACH A JUST DECISION. CIRCUMSTANCES CAN DIFFER GREATLY BETWEEN CASES, AND THE OFFICIALS AND/OR THE PRESIDING OFFICER OF THE HONOR BOARD MAY NEED TO MODIFY THE PROCEDURES IN A PARTICULAR CASE IN ORDER TO REACH A TIMELY AND JUST DECISION.*

### **1. Reading of the Allegation(s)**

The respondent shall be given notice to make appointment within forty-eight (48) hours to appear in the office of a Student Affairs official. The respondent will be presented with materials to fully instruct them on the preservation of their rights. Respondent students who fail to appear in the Student Affairs official's office after proper notice will have their case processed in accordance with the procedures outlined below in their absence.

The packet shall include:

- 1.1** Web address or copy of the Honor Code, Student Code of Conduct, Alcohol Policy, Drug Policy, and/or other policy, rule, regulation, etc.
- 1.2** A statement of the allegation(s) and identification of the complainant.
- 1.3** A procedural flow chart.
- 1.4** A listing of staff/faculty honor advisors.
- 1.5** A form for response to the allegation(s).
- 1.6** A waiver form.

**2.** Following the reading of the allegation(s), the student has three (3) working days after receipt of the forms provided to advise the official of the following:

- 2.1** If his/her response is an admission of violating the Code of Conduct and/or other policy, whether the respondent desires a sanction imposed by a single administrator, disciplinary panel or by an Honor Board.
- 2.2** If his/her response is an admission of violating the Honor Code and/or other policy, whether the respondent desires a sanction imposed by a single administrator, disciplinary panel or by an Honor Board.
- 2.3** If his/her response is not an admission of violating a Code and/or other policy:
  - a) Who his/her counsel or advisor will be (See "response of no violation").
  - b) Who his/her witnesses will be.
  - c) What documents or exhibits will be used.

**3.** At no time may any member of the Office of the Dean of Students advise or counsel the complainant or respondent. The parties should direct all questions about their matter to their honor advisors or other counsels. The parties, advisors or counsel may confer directly with Office of the Dean of Students for clarification of procedural questions.

### **4. The Disciplinary Panel/Honor Board/Conduct Official - Admission of a Violation**

- 4.1** No evidence as to the issue of a violation or non-violation shall be considered.
- 4.2** The respondent shall be permitted to present evidence or testimony solely on the issue of mitigation. Such evidence may, by way of illustration, consist of character witnesses or medical testimony.
- 4.3** A "victim's impact statement" may be submitted by the complainant, orally or in writing, outlining the impact of the respondent's behavior on the complainant's personal life and/or educational goals.
- 4.4** Decisions of the conduct body or official shall be communicated to the Dean of Students or designee for review and action.
- 4.5** Should the respondent elect to appear before the conduct body or official, s/he may waive five (5) working days' notice and be heard as soon as possible. Should the respondent not waive the requirement, the conduct body or official will convene the

proceeding no sooner than five (5) working days after the respondent admits to having violated a code and/or other policy and elects to proceed.

## **5. The Honor Board/Panel/Conduct Official - Response of Not In Violation**

- 5.1** The respondent and the complainant shall be given written notification of the date, time, and place of the hearing scheduled before the conduct body or official. Documentation of notification will be placed on file. The allegation(s) and/or name(s) of witness(es) may be different from those in the original notice as a result of additional information being made available to the Dean of Students Office through further investigation. Notice shall be given at least five (5) working days in advance of the hearing before the conduct body or official. Respondent students who fail to appear for the hearing after proper notice will have their case considered in their absence, based on evidence and testimony available.
- 5.2** The Dean of Students Office will provide a list of all witnesses to the allegation(s) to the presiding officer or official prior to the hearing. The Dean of Students Office may require the participation of witnesses when there is a reasonable basis to believe that a witness has knowledge pertinent to the issues. Mandatory participation orders will only be used when a witness has been asked to attend and states that s/he is unwilling to appear voluntarily.
- 5.3** The case file, containing statement(s) of the witness(es) and all other pertinent information, will be available for review in the Dean of Students Office prior to the hearing. All members of the conduct body or official shall read the case file prior to the hearing.
- 5.4** Both the respondent and the complainant may be accompanied at the hearing by an honor advisor, another non-attorney advisor, or an attorney. A respondent who wishes to be accompanied by an attorney must inform the Dean of Students Office in writing at least two (2) working days before the scheduled date of the hearing. If the respondent or complainant chooses to have an attorney present to advise him/her, the College's legal counsel may be present to advise the conduct body or official. When honor advisors or attorneys appear, their participation is advisory only; they shall not ask questions or participate in the hearing itself. No honor advisors or attorneys shall be present during deliberation.
- 5.5** Hearings will be closed to the public, unless the respondent or complainant requests that others attend. The granting or denying of this request shall be subject to a majority vote of the conduct body or the official presiding over the case.
- 5.6** If the respondent or the complainant has any special needs with regard to the hearing set-up, the request for accommodation must be relayed to the Dean of Students Office at least two (2) working days prior to the actual hearing. The Dean of Students Office may, after reviewing a request, ask the conduct body or official to accommodate concerns for the personal safety, well-being, and/or fears of confrontation of the complainant, respondent, and/or other witnesses during the hearing by providing separate facilities, by using a visual screen, and/or by permitting participation by telephone, videophone, audio tape, written statement, or other means.
- 5.7** The Chair of the conduct body will be the presiding officer. In his/her absence, the Dean of Students Office will designate another member of the panel to serve in this capacity.
- 5.8** After reviewing his/her case file (available in the Dean of Students Office), which lists the members or official called to hear the case, the respondent and complainant may challenge the empanelling of a particular conduct body member or official on the basis of personal bias. The challenge must be made in writing to the Dean of Students Office at least two (2) working days prior to the actual hearing.
- 5.9** The presiding officer or official will begin the hearing by stating the allegation(s) and asking the respondent if he/she wishes to change his/her response to the allegation. If the response is an admission of a violation, the presiding officer or official will follow the procedures set forth in "Admission of a Violation." If the response is no violation, the presiding officer or official will proceed to call the investigator and/or witness(es) to the allegation(s) in an order which seems logical to him/her from the witness list and the witness statements and information in the case file.

- 5.10** Witness(es), complainant and the respondent shall testify under oath or affirmation administered by the presiding officer or official.
- 5.11** Prospective witnesses will testify one at a time and may be excluded from the hearing during the testimony of other witnesses. Witnesses to the allegation(s) shall testify first; then the respondent may call witnesses and/or testify him/herself. Both the respondent and the complainant shall have the right to be present during the testimony of all witnesses, to question all witnesses, and to argue his/her case. **EXCEPTION: IN CASES OF SEXUAL MISCONDUCT ALL QUESTIONING IS DONE BY THE PRESIDING OFFICER AND MEMBERS OF THE CONDUCT BODY OR CONDUCT OFFICIAL ONLY.**
- 5.12** The burden of proof is upon the complainant or the College as complainant, and proof of a violation of the code by the respondent must be by a preponderance of the evidence. (This standard is not as stringent as proof beyond a reasonable doubt, which is required for criminal convictions.) Formal rules of evidence shall not be applicable during the hearing. The presiding officer or official shall admit all matters into evidence, including hearsay, if relevant, which reasonable persons would accept as having probative value in the conduct of their affairs. Unduly repetitious or irrelevant evidence may be excluded.
- 5.13** Affidavits may be admitted into evidence at the discretion of the presiding officer or official if there is good cause why the witness cannot appear in person. Conduct body members or the official may take notice of matters which would be within the general experience of college students at the College of Charleston.
- 5.14** If, at any time, the presiding officer or official finds it proper and necessary to recess the hearing or to continue it to a new time, she/he may do so.
- 5.15** A finding of “in violation” requires a majority vote of the conduct body. The presiding officer of the conduct body votes only in the case of a tie.
- 5.16** After a finding of “in violation” has been rendered by the conduct body or official, the presiding officer or official can inform the complainant that an “impact statement” may be submitted by the complainant, orally or in writing, outlining the impact of the respondent’s behavior on the complainant’s personal life and/or educational goals.
- 5.17** Records of prior disciplinary action(s) shall not be relevant to the determination of a violation of the code, but shall be provided to the conduct body or official only after a determination of a violation for the deliberations as to sanctions. **EXCEPTION: IN CASES OF SEXUAL MISCONDUCT PRIOR DISCIPLINARY ACTION MAY BE INTRODUCED PRIOR TO THE DETERMINATION OF A VIOLATION OF THE POLICY.**
- 5.18** Decisions of the conduct body or official shall be communicated to the Dean of Students or designee for review and action.

## **6. Status of a Student/Group Pending Final Resolution of a Disciplinary Case**

- 6.1** Until a final resolution is determined, the status of a student/group will not change unless interim restrictions have been imposed to protect the health and safety of the complainant/respondent/student group or the College community.

## **7. Violations Committed during Final exam periods, Maymester or Summer Sessions**

- 7.1** These procedures shall be in effect during final exam periods, Maymester and summer sessions. Efforts will be made to consolidate several hearings at one time so as not to inordinately interfere with the exam and summer schedules of the conduct body members and the parties involved. Therefore, the period of time between the violation(s) and the hearing may be slightly longer than during the regular school year. Further, during these periods, the student may choose for an official in Student Affairs to hear a response of no violation or to determine a sanction for an admission to a violation in order to expedite their case.



## 24. Sanctions and Record Keeping

1. One or more of the following sanctions may be imposed for violations of the honor system or other regulations:

- 1.1 Disciplinary warning – a written letter sent to the student from an official in Student Affairs or faculty member, stating that the student has been found to have violated a particular item of a code, that such conduct is unacceptable and that further misconduct will result in more severe disciplinary action.
- 1.2 Restriction – certain student privileges may be suspended for a set period of time, providing that suspension of these privileges does not interfere with the student’s ability to complete his/her academic work at the College.
- 1.3 Fines—previously established and published fines may be imposed.
- 1.4 Restitution – compensation for loss, damage or injury. This may take the form of appropriate service and/or monetary or material replacement.
- 1.5 Disciplinary probation – a student on probation is not considered in good standing within the College, and his/her continued enrollment is conditioned upon good conduct for the probationary period. The period of time over which the probation extends shall be set forth in the letter to the student as well as the probability of more severe disciplinary sanctions if the student is found to violate any regulation during the probationary period. This sanction may limit student participation in other College activities or programs as determined by individual College units.
- 1.6 Residence Probation - this sanction informs students that the standards necessary for community living have been seriously violated and that future violations of College policy may result in residence suspension, suspension, or expulsion from the College.
- 1.7 Residence Suspension - this sanction requires the student to terminate occupancy of on-campus residence for a specified period of time, and is automatically accompanied by the assignment of a Persona Non Grata status from all residential environments of the College. Residence suspension status does not limit participation in non-residential programs. Conditions which must be met in order to be eligible to live on-campus at the end of the residence suspension period must be clearly outlined.
- 1.8 Residence Expulsion – permanent separation of the student from the residential system. This sanction is automatically accompanied by the assignment of a Persona Non Grata status from all residential environments of the College and full payment of the housing contract if the removal is due to a code or regulation infraction.
- 1.9 Deferred suspension or expulsion– a student on deferred suspension or expulsion is not considered in good standing within the College, and the suspension or expulsion is held in abeyance as long as all other sanction conditions are completed and the student has no other serious proven code violations. The period of time over which the deferred suspension or expulsion extends shall be set forth in the letter to the student. This sanction may limit student participation in other College activities or programs as determined by individual College units.
- 1.10 Transcript notation describing the reason for a particular grade, period of separation or dismissal.
- 1.11 Disciplinary suspension - denial of enrollment, attendance, access to campus property, and other privileges at the College for a given period of time; permission to reapply for admission at the end of the period may be granted with or without qualifications.
- 1.12 Disciplinary Expulsion – permanent dismissal from the College.
- 1.13 Other –
  - A. apology
  - B. disciplinary work hours may be assessed where the student will do work benefiting the College or community;
  - C. withholding a transcript or degree otherwise earned until the completion of the process set forth in this *Student Handbook*, including the completion of all sanctions imposed, if any;

- D.** rehabilitative educational experiences may be ordered with or without fees attached (restorative justice circle, drug or alcohol counseling, psychological assessment, defensive driving course, essays, class presentations, etc.);
  - E.** any other sanction deemed appropriate.
- 1.14** The following sanctions may be imposed upon groups or organizations –
- A.** Those sanctions listed above, 1-8 and 13.
  - B.** Loss of selected rights and privileges for a specified period of time.
  - C.** Deactivation. Loss of all privileges, including College recognition, for a specified period of time.
- \* More than one of the sanctions listed above may be imposed for any single violation.

**2.** Sanctions will be determined by a majority vote of the Honor Board or disciplinary panel except in the case of expulsion, which requires a unanimous vote of the Board or panel. All sanctions will be forwarded to the Dean of Students or designee for review and action.

**3.** An appropriate letter informing the student (and the Complainant in appropriate cases) of the sanctions imposed will be available to the student in the Office of the Dean of Students within two working days of the decision of the Honor Board/panel/official. It is the responsibility of the student to pick up this letter or read any electronic version delivered officially.

**4.** In cases of academic dishonesty, the instructor of the course will also receive a copy of the letter.

**5.** The sanction of disciplinary expulsion may become a matter of permanent record in the Office of the Registrar with approval of the Executive Vice President for Student Affairs and will accompany all official transcripts sent by the College.

**6.** The Office of the Dean of Students will place a hold flag on the record of a student suspended or expelled for disciplinary reasons and all pending cases. Such hold flag will prohibit the enrollment of the named student for the appropriate length of time or until such time the case is resolved. Holds will also be placed on the record of a student failing to complete assigned sanctions by their stated deadlines.

**7.** Files on pending cases and records of expulsions will be maintained indefinitely in the Office of the Dean of Students.

**8.** Records of all other disciplinary sanctions will be maintained for seven (7) years in the Office of the Dean of Students after all appeal rights have expired or have been exhausted, unless federal or state law requires that they be maintained for a longer period for auditing purposes only.

**9.** Disciplinary files and recordings of cases that resulted in “not in violation” findings will be destroyed after all appeal rights have expired or have been exhausted, except in cases of sexual misconduct.

**10.** Recordings of all conduct hearings shall be kept until all appeal rights have expired or have been exhausted, and then destroyed, except in cases of sexual misconduct.

**11.** No earlier than one year after the date of final sanctioning, a student may request that their disciplinary record be destroyed. This stipulation does not apply to the XXF sanction, pending cases or expulsions. This request must be made in writing and will be reviewed by the Executive Vice President for Student Affairs or their designee. The Executive Vice President will consider destruction of a disciplinary file after examining the incident, the sanctions, sanction completion, disciplinary history, evidence of personal development, demonstration of good cause shown, and any other criteria the Executive Vice President deems appropriate.

## 25. Appeals

1. A decision reached or a sanction imposed by a conduct body or official may be appealed by the respondent and/or complainant to the Executive Vice President for Student Affairs within five (5) working days of the transmittal of the decision. Such appeals shall be in writing and shall cite the name of the case; the grounds for the appeal and the relief requested.
2. The Executive Vice President can elect to call an advisory Appellate Board. The Appellate Board will consist of three to five persons, none of whom participated in the original hearing in any capacity. The Appellate Board serves in an advisory capacity to the Executive Vice President for Student Affairs and is not a decisional authority. Its recommendations are non-binding. The Executive Vice President may use an Appellate Board in any capacity she/he deems necessary to best benefit the honor system and the parties involved.
3. Appeals shall be filed to, Executive Vice President for Student Affairs, 66 George Street, Stern Student Center, College of Charleston, Charleston, SC 29424 or sent electronically, with a copy to the, Dean of Students, 66 George Street, Stern Student Center, College of Charleston, Charleston, SC 29424 or his/her email address. The Dean of Students will then notify and provide a copy of the appeal to the other party or parties to the proceeding. The non-appealing party or parties shall have three days from receipt of the appeal to state his/her position on the appeal with the Executive Vice President for Student Affairs with a copy to the Dean of Students.

Deviations from designated procedures will not be a basis for sustaining an appeal unless they affect the finding of a material fact or they could have otherwise affected the outcome. Except as required to explain the basis of new evidence, an appeal shall be limited to review of the verbatim record of the initial hearing and supporting documents. The only grounds that will justify changing or overruling a previous decision by the official, panel or Honor Board are the following:

- 3.1. There was no reasonable basis in the record for the decision rendered or the sanction imposed;
  - 3.2. There was a substantive mistake of procedure that likely influenced the outcome of the proceeding; or
  - 3.3. New evidence, sufficient to alter a decision was not brought out in the original hearing, because such evidence was either unavailable or unknown at that time after diligent inquiry by the person appealing.
4. The Executive Vice President for Student Affairs will make every attempt to reach a determination within ten (10) working days from the date of the appeal. The Executive Vice President for Student Affairs, as deemed necessary, may elect to interview the parties. At this stage in the appeals process, the Executive Vice President for Student Affairs' response time may be modified if circumstances dictate. The decision of the Executive Vice President is final, and the Executive Vice President is not required to give any deference to previous determinations.
  5. In cases involving appeals by student respondents of violating the Honor Code, Student Code of Conduct, and/or other policy, review of the sanction by the Executive Vice President for Student Affairs cannot result in more severe sanction(s) for the respondent student.
  6. In cases involving appeals by persons other than student respondents of violating the Honor Code, Student Code of Conduct, and/or other policy the Executive Vice President for Student Affairs may, upon review of the case, reduce or increase the sanction(s) imposed by the Honor Board/panel/official.
  7. **\*For drug-related, marijuana and alcohol violations: If the student admits to the violation or is found in violation through a conduct process the minimum sanction is NOT subject to appeal on the grounds of the sanction being excessive or inappropriate. All sanctions above the minimum sanctions as proposed in the *Student Handbook* may be reviewed for their appropriateness.**

8. The final authority over all decisions made under the Honor System rests with the Executive Vice President for Student Affairs.

## **26. Prohibition of Discrimination and Harassment, Including Sexual Harassment and Abuse Policy**

(See full policy and also the related policy “Operating Procedures for Processing Initial Complaints Against Faculty and Administrators and Staff” in Appendixes C and D.)

It is the Policy of the College of Charleston to promote and protect a learning and living environment where civil discourse, respect for the individual and appreciation for the diversity of human experiences are valued as compelling academic interests. Accordingly, it is a violation of this Policy for any member of the college community to discriminate or harass students or employees, or applicants for admission to the College or applicants for any College employment position, based on gender, sexual orientation, gender identity or expression, age, race, color, religion, national origin, veterans’ status, genetic information, or disability, as proscribed by law and as further described below. In addition, discrimination against members or potential members of the United States uniformed services, as proscribed by the Uniformed Services Employment and Reemployment Rights Act (USERRA), is also prohibited under this Policy. Retaliation against any person arising from the good faith reporting of a suspected violation of this Policy, or for participating in an investigation of discrimination under this Policy, is strictly prohibited.

Sexual harassment can occur in a variety of contexts. In relationships of unequal power, it contains an element of coercion, as when compliance with requests for sexual favors becomes a criterion for granting work, study, or grading benefits. In relationships among equals, sexual harassment may have a harmful effect upon a colleague’s ability to study or work in the academic setting.

## **27. Consensual Relations Policy**

“Sexual relations between students and faculty members with whom they also have an academic or evaluative relationship are fraught with the potential for exploitation. The respect and trust accorded a professor by a student, as well as the power exercised by the professor in an academic or evaluative role, make voluntary consent by the student suspect...In their relationships with students, members of the faculty are expected to be aware of their professional responsibilities are to avoid apparent or actual conflict of interest, favoritism, or bias. When a sexual relationship exists, effective steps should be taken to ensure unbiased evaluation or supervision of the student.” [AAUP Policy cited by AAUP Staff counsel in *Sexual Harassment in the Academy: Some Suggestions for Faculty Policies and Procedures*, October 2002.]

Similar concerns exist when sexual relations occur between students and staff members in supervisory, evaluative, or trust positions.

Accordingly, the College of Charleston adopts the following policy regarding consensual relationships between students and faculty or staff:

All sexual relationships between students and faculty/staff are strongly discouraged. Further, no faculty or staff member shall have an amorous relationship (consensual or otherwise) with a student who is enrolled in a course being taught by the faculty member or whose work is being supervised, evaluated, or otherwise impacted by the faculty or staff members.

## **28. Rights of Students under the Family Educational Rights and Privacy Act and Annual Notice**

### **1. FERPA**

The Family Educational Rights and Privacy Act of 1974 (FERPA), as amended, is a Federal law that protects the privacy of student education records. In accordance with regulations issued under FERPA, the College of Charleston provides an annual notification to our enrolled students of their rights under FERPA.

### **1.1. Rights of Students**

In accordance with FERPA and relevant College of Charleston policies and practices, enrolled students at the College have the following rights.

**A. The right to inspect and review**

[[http://www.cofc.edu/registrar/Student\\_Inspect\\_Record.pdf](http://www.cofc.edu/registrar/Student_Inspect_Record.pdf)] the student's education records within 45 days of the day the College receives a request for access to those records. (See section entitled "INSPECTION AND REVIEW OF RECORDS").

**B. The right to request an amendment**

[[http://www.cofc.edu/registrar/Student\\_Amend\\_Record.pdf](http://www.cofc.edu/registrar/Student_Amend_Record.pdf)] to the student's education records that the student believes are inaccurate, misleading, or otherwise in violation of the student's privacy rights under FERPA. (See section entitled "AMENDMENT OF RECORDS").

**C. The right to provide written consent**

[[http://www.cofc.edu/registrar/Student\\_Information\\_Release\\_Form.pdf](http://www.cofc.edu/registrar/Student_Information_Release_Form.pdf)] to the disclosure of personally identifiable information contained in the student's education records, except to the extent that FERPA authorizes disclosure without student consent (See section entitled "DISCLOSURE OF PERSONALLY-IDENTIFIABLE INFORMATION").

**D. The right to file a complaint with the U.S. Department of Education concerning alleged failures by the College to comply with the requirements of FERPA. The name and address of the Office that administers FERPA is: Family Policy Compliance Office, U.S. Department of Education, 400 Maryland Avenue, SW, Washington, D.C. 20202-5901.**

### **1.2. Inspection and Review of Records**

Students should submit to the registrar, dean, head of the academic department, or other appropriate official, written requests [[http://www.cofc.edu/registrar/Student\\_Inspect\\_Record.pdf](http://www.cofc.edu/registrar/Student_Inspect_Record.pdf)] that identify the record(s) the students wish to inspect. The College official will make arrangements for access and notify the student of the time and place where the records may be inspected. If the records are not maintained by the College official to whom the request was submitted, that official will advise the student of the appropriate person to receive the request.

### **1.3. Amendment of Records**

Students may ask the College to amend a record that they believe is inaccurate, misleading, or in violation of the privacy rights of the student. They should write the College official responsible for the record, clearly identify the part of the record they want changed, and specify why it is inaccurate or misleading.

If the college decides not to amend the record as requested by the student, the College will notify the student of the decision and advise the student of his or her right to a hearing regarding the

request for amendment. Additional information regarding the hearing procedures will be provided to the student when notified of the right to a hearing.

If, as a result of the hearing, the College decides that the information in the education record is not inaccurate, misleading, or otherwise in violation of the privacy rights of the student, the College will so advise the student and the student may place a statement in the record commenting on the contested information in the record or stating why he or she disagrees with the decision of the College.

#### **1.4. Disclosure of Personally-Identifiable Information**

FERPA requires that a student provide written consent for a disclosure of personally identifiable from education records unless the circumstances meet one of the exceptions to the “prior written consent” rule that is specified in the law or its implementing regulation. Under those exceptions, as implemented by the College, the College *may* disclose information from a student’s education records without the student’s written consent, to the following parties or under the following conditions:

School officials whom the College has determined to have legitimate educational interests.

A school official is a person employed by the College in an administrative, supervisory, academic or research, teaching, or support staff position (including law enforcement until personnel and health staff); a contractor, consultant, volunteer or other party to whom the College has outsourced institutional services or functions for which the College would otherwise use its own employees to perform (for example, legal advice, debt collection, transcript distribution, enrollment verification, citizenship verification, fundraising and alumni communications, development, information technology services, such as web-based and e-mail services); a person serving on the Board of Trustees; or a student serving on an official committee, such as a disciplinary or grievance committee, or a student assisting another school official in performing his or her tasks.

A school official has a legitimate educational interest if the official needs to review or have access to an education record in order to fulfill his or her professional responsibility.

Officials of another institution of postsecondary education where the students seeks or intends to enroll, or where the student is already enrolled, so long as the disclosure is for purposes related to the student’s enrollment or transfer.

Authorized representatives of the Comptroller General of the United States, Attorney General of the United States, Secretary of the U.S. Department of education, and state and local educational authorities.

In connection with financial aid for which the student has applied or which the student has received, if the information is necessary for such purposes to determine eligibility for the aid; determine the amount of the aid; determine the conditions for the aid; or enforce the terms and conditions of the aid.

State and local officials or authorities, pursuant to State statutes, if the reporting or disclosure concerns the juvenile justice system and the system’s ability to effectively serve the student whose records are released.

Organizations conducting studies for, or on behalf of, the College to develop, validate, or administer predictive tests; administer student aid programs; or improve instruction.

Accrediting organizations to carry out their accrediting functions.

Parent (including a natural parent, a guardian, or an individual acting as a parent in the absence of a parent or guardian) of a dependent student (as defined in *section 152 of the Internal Revenue Code of 1986*).

In compliance with a judicial order or lawfully issued subpoena.

In connection with a health or safety emergency.

Information that the College has designated as “directory information” unless the student has requested such directory information be withheld.

The final results of a disciplinary proceeding conducted by the College to a victim of an alleged perpetrator of a crime of violence or a non-forcible sex offense with respect to that alleged crime or offense *regardless* of whether the College concluded a violation was committed.

The final results of a disciplinary proceeding conducted by the College to the general public upon concluding that the student committed a crime of violence or non-forcible sex offense and that the student has committed a violation of the College’s rules or policies.

A parent of a student under the age of 21 at the time of disclosure regarding the College’s determination that the student violated federal, state or local law or College policy governing the use or possession of alcohol or a controlled substance.

Information provided to the College pursuant to federal law and guidelines concerning sex offenders and others required to register pursuant to federal law.

De-identified records and information.

Parent of a student who is not an “eligible student” under FERPA, or to the student.

### **1.5. Notice of Designating Directory Information**

FERPA requires that College, with certain exceptions (see section entitled “DISCLOSURE OF PERSONALLY IDENTIFIABLE INFORMATION”), to obtain the student’s written consent prior to the disclosure of personally identifiable information from the student’s education records. However, the College may disclose appropriately designated “directory information” without the student’s written consent, unless the student has advised the College to the contrary in accordance with the College procedures from “opting-out” of the release of directory information. FERPA defines “directory information” as information contained in the education records of a student that would not generally be considered harmful or an invasion of privacy if disclosed. The College hereby designated the following student information as “directory information”:

Student’s name; Local and permanent address; Local and permanent telephone listing; Campus e-mail address; Photograph of student; Date of birth; Place of birth; Major of field(s) study; Class standing (e.g., sophomore); Dates of attendance; Degree(s) received; Awards and honors received; Most recent institution attended; Enrollment status (e.g., undergraduate, graduate, full-time or part-time); Participation in officially recognized activities and sports; and Weight and height of members of athletic teams.

If a student does not the College to release part or all of his or her directory information, the student must submit an opt-out form [[http://www.cofc.edu/registrar/FERPA\\_OPTOUT\\_FORM.pdf](http://www.cofc.edu/registrar/FERPA_OPTOUT_FORM.pdf)] to the College Registrar's Office on or before the tenth class day of the fall and spring semesters, or the fifth class day in the summer term for it to be applicable to that semester/term and for subsequent periods of time. Directory information of a student who has opted-out from the release of directory information, in accordance with this policy/procedure for opting out, will remain flagged until the student requests that the flag be removed by completing and submitting the revocation section of the opt-out form [[http://www.cofc.edu/registrar/FERPA\\_OPTOUT\\_FORM.pdf](http://www.cofc.edu/registrar/FERPA_OPTOUT_FORM.pdf)] to the College Registrar. If directory information is released prior to the Registrar receiving the opt-out form, the College may not be able to stop the disclosure of directory information.

The College disclaims any and all liability that may arise or be alleged as a result of honoring a student's instructions that directory information be withheld, or for the inadvertent disclosure of such information.

## **1.6. College Contact**

For additional information or for questions concerning the College's FERPA policy and procedures, please contact the College Registrar @ College of Charleston, 160 Calhoun Street, Lightsey Center, Room 281, Charleston, SC 29424, (843.953.5668), [Registrar@cofc.edu](mailto:Registrar@cofc.edu).

# **29. Students of Concern Committee & Involuntary Withdrawal Policy**

## **1.0 PURPOSE**

**1.1** The Student of Concern Committee ("SOC" or "Committee") is a campus resource established to receive, collect, consider, and when it deems appropriate, act upon information on behavior of concern exhibited by a student or group of students. The College of Charleston ("College") has established a Student Code of Conduct to facilitate the maintenance of a safe college environment conducive to the pursuit of academic achievement by all its students. The SOC objective is to support this purpose through investigation, reasoned analysis, and the provision of supportive intervention services, when needed, to our students.

**1.2** The Committee, operated within the division of Student Affairs, is formed under a delegation of authority from the College President to the Executive Vice President for Student Affairs, who functions as the Appointing Authority for the SOC. The SOC is chaired by the Dean of Students.

## **2.0 POLICY STATEMENT**

**2.1** The SOC works to maintain a safe College environment that is conducive to academic achievement while balancing its concern for individual students. In pursuit of this purpose, the Committee's mandate is to use reasonable discretion, based on a record of relevant materials, in order to make informed decisions that are in the best interest of the student involved and the entire College Community. This broad mandate allows the Committee to develop personalized plans of action, after considering a full range of suitable options, and selecting that one it believes is best tailored to the circumstances of a particular case. Action plans may fall across a wide continuum in relation to the progressive level of concern the Committee might have regarding a student's or students' behavior, safety, and the welfare of others. Plans developed may range from simply maintaining a confidential record of the reported behavior or, in severe circumstances, may progress to an involuntary withdrawal of a student from the College or a referral to a disciplinary panel. The majority of action plans developed will fall between these extremes. Throughout the evaluation process the Committee will attempt, in accordance with legal restrictions and College privacy policies, to keep all involved students appropriately informed of the actions of the Committee.



**2.2** The Committee acts in compliance with College of Charleston Privacy Policy and all relevant provisions of state and federal law including, but not limited to, the federal Family Educational Rights and Privacy Act of 1974 (FERPA). The SOC does not release or share protected student information to any member of the College community unless the recipient has a legitimate interest for the use of that protected information to perform a service or carryout a responsibility within that person's scope of employment.

### **3.0 APPLICABILITY**

The Students of Concern Committee is in place to support all departments and individuals on campus. This policy applies to all undergraduate and graduate students of the College.

### **4.0 MEMBERSHIP AND DECISIONAL AUTHORITY**

**4.1** The Committee, under the leadership of the Dean of Students or designee as Chair, will work to reach a fully informed consensus among its members when making its decisions, recommendations, and formulating individual plans of action. SOC decisions represent the exercise of discretion and judgment based on the collective expertise, knowledge, and experience of the SOC members, the relevant facts of the situation under consideration, and the behavior of the student at issue. Each individual on the Committee, or their meeting designee, strives to contribute to the group's collective decision-making process by bringing to the task their professional training, experience, and perspective from years of working with college students. The SOC is made up of the following individuals from various areas of the College:

Dean of Students & Associate Dean	Office of the Dean of Students
Case Manager	Office of the Dean of Students
Director	Counseling & Substance Abuse Services
Director	Student Health Services
Medical Director	Student Health Services
Director	Undergraduate Academic Services
Director	Residence Life
Chief or Designee	Public Safety
Faculty Member*	Faculty

*\*Appointed by Speaker of the Faculty, approved by the EVP for Student Affairs*

**4.2** In addition to drawing on the knowledge of the group members, the Committee may utilize the opinions and reports from other College personnel or outside independent professionals, such as licensed mental and/or medical healthcare providers, in an effort to obtain a better understanding of an individual situation. Examples of members of the College community that the Committee may seek out for interviews or reports include roommates, close friends, past and current teachers, coaches, trainers, counselors, RAs, RHDs, and disability services personnel. Legal advice may be solicited from the College's Senior Vice President for Legal Affairs.

**4.3** At times the SOC may request to review current or past medical or psychological records or care providers' reports as part of its evaluation process. The Committee may ask for independent and/or on-campus medical or psychological assessment by licensed professionals in an effort to obtain the most complete information on which to base its decisions. The SOC may consider ongoing or interim reports by such professionals as an essential monitoring aspect of the individual action plans the Committee develops.

**4.4** The Committee will also determine on a case by case basis who within the College community or external to it, needs to be given information in order to better protect the health and safety of the individual student, the College Community, and/or others. When appropriate, the SOC will inform the individual involved of the Committee's intent to notify those people as a condition of an individual action plan.

**4.5** A Committee member must abstain from making a decision on an individual case if that member has an actual or apparent conflict of interest, such as a prior professional relationship with the student. The full circumstances of any such conflict must be reported by the Committee member to the Chair of the Committee. In the event of a disagreement over the management of any apparent or actual conflict, a majority of the disinterested members of the Committee will finally decide the matter in a manner most appropriate to the particular situation.

## **5.0 MEETINGS OF THE STUDENTS OF CONCERN COMMITTEE**

**5.1** During fall and spring semesters when classes are in session, the Students of Concern Committee will meet weekly, or as otherwise determined by the SOC Committee Chair, to discuss new cases, existing cases, and other general topics related to SOC operations and best practices.

**5.2** During summer sessions and when students are not in session during the fall and spring semesters, the SOC Committee Chair will schedule meetings as needed to discuss case activity as needed and/or general topics related to SOC operations and best practices.

## **6.0 REFERRALS**

**6.1** All referrals to the Students of Concern Committee are received by the Dean of Students, Case Manager, or the designee(s) of either. The SOC accepts referrals by phone, by email or electronic/online referral form, or in person from any individual or group of individuals who has “concern” about a College of Charleston student, as further described in Section 7.1 of this Policy.

**6.2** Because access to the Committee is widely available, the Committee may receive information from time to time that is better processed and acted upon by another campus official(s) who has the specific authority to address and resolve the particular matter. In such instances the SOC may forward supplied information to what it deems to be the most appropriate group with the authority to address the situation. In that event, the SOC will not render a decision on the matter. For instance, the SOC might decide that an individual action plan is simply to allow the Dean of Students to act on the situation without further Committee involvement. In other cases the Committee’s sole action might be to refer the matter on to the disciplinary panel or the honor board.

**6.3** Campus resources available to students and/or their family and friends include: The Center for Disability Services; Counseling and Substance Abuse Services; Office for Victim Services; Student Health Service; The Center for Student Learning (Tutoring and Skills Lab); Academic Advising and Planning Center; and Undergraduate Academic Services. These campus resources provide supportive services to assist students in achieving academic and personal success. These resources may be sought voluntarily by a student, or the SOC may compel a referred student to utilize these resources as part of a proposed action plan, as further described in Section 7.3 of this Policy.

## **7.0 PROCEDURES**

**7.1** A referral to the Students of Concern Committee is received by the Dean of Students, Case Manager, or the designee of either. To meet criteria for an SOC intervention, the information received about an individual student must reasonably suggest that:

- (a) The conduct of the student presents a significant risk to the health or safety of others that cannot be eliminated by a modification of policies, practices or procedures, or by the provision of auxiliary services; **or**
- (b) The conduct may be a violation of the Student Code of Conduct and/or such conduct may hamper the student’s ability to achieve essential academic requirements or meet expected standards of conduct; **or**
- (c) The conduct in question may be evidence of a health condition

**7.2** In the event that information received includes a stated or implied threat to someone in the campus community, the Dean of Students, Case Manager, or a designee of either, before or after consultation with

the SOC or a subgroup of the SOC, will pursue urgent mitigation of the known threat by notifying the Department of Public Safety.

**7.3** If the information reasonably suggests that the individual student meets the criteria above (7.1 (A) or (B)), the individual student will be afforded the opportunity to meet with the Dean of Students, Case Manager, or a designee of either, and express his or her point of view on the appropriateness and desirability of SOC intervention. The SOC shall conduct an individualized and objective assessment of the student's ability to participate safely in the College's programs. Based on the information gleaned from this assessment and from the referral source, the information from the meeting with the student, and, if applicable, information from other sources, the Dean of Students, Case Manager, or designee, acting on behalf of the Students of Concern Committee, will consult with the SOC or a subgroup of the SOC and propose a plan of action and/or remedial measures in writing for the student. The proposed plan will be shared with the entire SOC at the next regular meeting. SOC will grant approval of the plan or suggest modifications that will be promptly relayed to the student.

**7.4** In a situation where the individual student meets the criteria above in Section 7.1, but is not available or not willing to meet with the Dean of Students, Case Manager, or a designee, then a proposed plan of action and/or remedial measures will, after consultation with the SOC or a subgroup of the SOC, be assigned to the student, in writing. This course of action may occur in situations in which a student has been transported to a medical facility due to behavior that reasonably appeared to present a significant risk to the health or safety of others. The proposed plan will be shared with the entire SOC at the next regular meeting. SOC may either grant approval or disapproval of the plan or suggest modifications to the plan that will be promptly relayed to the student.

**7.5** If, after meeting with the Dean of Students, Case Manager, or designee, the student declines to accept the proposed remedial measure(s), the student may request to have a hearing with SOC members.

- (a) In that event, the Dean will promptly arrange for the student to appear before a subgroup of Committee members. The Dean will advise the student of the matters that will be discussed at, and considered by the subgroup. This hearing is private and closed to the public
- (b) The student has the option to appear at this hearing with his or her healthcare provider, if the student so desires. The provider will be afforded the opportunity to provide relevant information in support of the student's position. In the event that the provider cannot be present, the Committee will accept a written statement from the provider.
- (c) The purpose of such a hearing is to assist the Committee in its evaluation of the individual's behavior and situation. This is NOT a disciplinary hearing. The subgroup will work to establish a thorough understanding of what has occurred and will formulate a recommendation that will take the form of an individualized plan of action based on the subgroup's interpretation of past behavior, as well as, the current situation and all relevant circumstances.
- (d) The designated subgroup will then report to the full Committee, will supply a record of the hearing for the full Committee to review, and will make a recommendation to the Committee. If the Committee believes the recommendation is supported by the record, the Committee will adopt the recommendation. Alternatively, the Committee may remand the matter to the subgroup for more investigation, modify the recommendation, or reject it altogether; however, the Committee must state a reasonable basis for taking such an action and that action must be based on the record.
- (e) The involved student must be timely informed of the Committee's determination and of the student's appeal rights (see **APPEALS**, Section 12.0 below).

**7.6** In a situation when the individual student accepts the proposed remedial measure(s) comprising the plan but then fails to follow through with the measure(s), the SOC may apply additional measures that may include, but are not limited to:

- (a) Extended or expanded remedial measures,
- (b) A temporary hold on the student's registration until measures are completed, to be placed by the Dean of Students or designee,

- (c) A notice to the student that he/she has failed to follow-through with the proposed measures and that this will be considered in any future action plan should the student continue to exhibit behavior(s) of concern,
- (d) Involuntary removal from student resident housing,<sup>4</sup>
- (e) an order issued by the Executive Vice President of Student Affairs, or other appropriate authority, limiting access to College property; and/or
- (f) Involuntary withdrawal<sup>5</sup> from the College.

**7.7** In cases where Public Safety is not already fully informed, the Dean of Students, Case Manager, or designee, before or after consultation with the SOC or a subgroup of the SOC, will inform campus Public Safety of incidents or on-going situations that may warrant law enforcement intervention and/or community notice, or that may prompt Public Safety to request a convening of the Emergency Management Team. Such situations may include but are not limited to:

- (a) Threat to the campus and greater community;
- (b) Threat to specific individual(s) in the campus community;
- (c) Report that a residential student is missing for more than 24-hours; and
- (d) Suspicion of firearms or other deadly weapons on campus.

**7.8** **Willful** failure of a student to respond or acknowledge the action plan proposed by the SOC shall not affect the validity of, or delay any decision made under this policy.<sup>6</sup>

**7.9** While the SOC will make a good faith attempt to monitor an action plan, it is the sole responsibility of the student to follow the plan and to comply with all of its terms and conditions including, but not limited to, seeking medical care, following medical advice, and honestly reporting the student's physical and mental condition to her/his healthcare provider(s). **The SOC is not a substitute for a student's personal healthcare provider;** nor should the SOC be considered a personal "caregiver." SOC intervention does not relieve a student of his/her personal responsibility under the code of conduct and other applicable policies.

## **8.0 STANDARDS**

**8.1** The SOC will propose a remedial action plan of action based on the collective judgment and belief of a majority of disinterested members after following the above procedures that it is more likely than not:

- (1) That the recommended plan, if followed, will have a positive effect on the student meeting his/her College responsibilities; and
- (2) The plan presents a reasonable option under the circumstances for achieving that purpose without imposing an undue hardship on the College or unacceptable risk of harm to others in the greater College Community.

**8.2** [KCB1][BMR2]The Committee, with the assistance of other College resources, as needed, will conduct an assessment to determine if the student is a qualified individual with a disability and whether a reasonable accommodation will allow that student meet his/her essential academic, technical and College community responsibilities while maintaining a safe college environment for all students. This determination will involve an interactive process of give-and-take with the student.

## **9.0 ALTERNATIVE HOUSING WHILE ENROLLED**

**9.1** In the circumstance that a resident student cannot safely remain in his/her current housing situation, the College will make a reasonable effort to find alternate campus housing that would be appropriate under the circumstances.

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<sup>4</sup> See **Section 9.0 ALTERNATIVE HOUSING WHILE ENROLLED**

<sup>5</sup> See **Section 10.0 INVOLUNTARY WITHDRAWAL**

<sup>6</sup> Language adapted from University of Florida, Regulation 6C1-4.035 Involuntary Medical Withdrawal.

**9.2** In the circumstance that a resident student is not suspended or withdrawn, but cannot safely remain in College housing, the College may require the student to leave campus housing while enrolled. The College, in addition, may restrict the student from entering College housing to prevent a significant risk that the student may harm him/herself or others.

## **10.0 INVOLUNTARY WITHDRAWAL<sup>7</sup>**

**10.1** Involuntary withdrawal from enrollment, as a proposed plan of action by the SOC, is invoked only in extraordinary circumstances, when a student is unable or unwilling to request a voluntary leave of absence or withdrawal, and such a leave or withdrawal may be necessary because the student's conduct poses a significant risk to the health or safety of others or where the student's behavior unduly disrupts the College's learning and living environment. This may include, but is not limited to, such situations involving an unresolved, ongoing, inability to learn or function in a communal setting; and serious threats, gestures or indications of harm to others. Involuntary withdrawal is not a disciplinary action. It is a remedial action taken to assist and protect individuals.

**10.2** Notwithstanding any other provision of this Policy, the Dean of Students maintains the authority to impose an immediate interim suspension at any time, if deemed immediately necessary to protect the student or others. Interim suspension procedures are outlined in the *Student Handbook*.

**10.3** A student proposed for involuntary withdrawal shall be afforded:

- (a) The opportunity to meet with the Dean of Students, Case Manager, or designee of either to express his/her point of view on the involuntary withdrawal,
- (b) Written notice of the College's decision to act under this policy, stating the reasons for the action, and
- (c) The opportunity to appeal. See **APPEALS**, Section 12.0.

**10.4** Willful failure of a student to respond or acknowledge a proposed involuntary withdrawal shall not affect the validity of, or delay any decision regarding that withdrawal made under this policy.

**10.5** A student who is involuntarily withdrawn shall have a registration hold placed on his or her record and will be subject to conditions for re-enrollment.<sup>8</sup> Re-enrollment may be contingent on satisfying conditions outlined by the Office of the Dean of Students and, if applicable, other offices on campus for the purpose of seeing that a student has demonstrated his/her ability to function safely and autonomously prior to returning to campus.

**10.6** In the event that a student is subject to an involuntary withdrawal, and absent exceptional circumstances that, in the sole opinion of the Dean of Students, would establish a clear inequity, the student may pursue re-enrollment to the College only after the lapse of at least two full semesters, not including the semester during which the student was subject to the withdrawal (for this purpose, the 10-week summer session is considered one semester).

## **11.0 RE-ENROLLMENT AFTER A VOLUNTARY OR INVOLUNTARY SEPARATION<sup>9</sup>**

**11.1** In the event of a voluntary separation (e.g., withdrawal or leave of absence), the College may require a student who withdrew for one or more reasons stated in Section 10.1 to demonstrate that he/she no longer continues to be subject to such conditions as a requirement for re-enrollment at the College.

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<sup>7</sup> Language from 10.2, 10.3, and 10.4 adapted from University of Florida, Regulation 6C1-4.036 Involuntary Medical Withdrawal.

<sup>8</sup> See **Section 11.0 RE-ENROLLMENT AFTER A VOLUNTARY OR INVOLUNTARY SEPARATION**.

<sup>9</sup> As stated in the College of Charleston's Undergraduate Catalog, page 19 and on page 24: "If a student discontinues enrollment from the College of Charleston, whether voluntarily or not, re-entry for future semesters may be contingent on satisfying conditions outlined by the Office of Student Affairs and Undergraduate Academic Services."

Conditions for the student's return will be outlined to the student by the Office of the Dean of Students, after discussion with the student, if practicable under the circumstances, at the time of the withdrawal or leave. The SOC or a subgroup of the SOC will be consulted for the purpose of evaluating the student's adherence to re-enrollment requirements. The re-enrollment decision will be shared with the entire SOC at its next regular meeting. SOC will grant approval or disapproval of the decision or suggest additional stipulations that will promptly be relayed to the student.

**11.2** For students who have voluntarily separated from the College for a behavioral concern, as described in Section 10.1, the Committee typically expects to review a period of at least three months of successful, autonomous functioning and amelioration of symptoms prior to the student's return. The Committee will consider a separation of shorter duration if the student and/or the student's provider is (are) able to demonstrate significant improvement in functioning since the time of the withdrawal.

**11.3** In a situation when the individual student is not recommended for re-enrollment by the SOC or a subgroup of the SOC (on the basis of inadequate treatment, lack of recovery progress, or demonstration of autonomous functioning), but where there is no evidence that the student poses a threat to others or is incapable of adhering to expected standards of conduct at the College, the student may still re-enroll at the College, with additional remedial measures applied by the SOC. These may include, but are not limited to:

- (a) Extended or expanded remedial measures,
- (b) A temporary hold on the student's registration until measures are completed, to be placed by the Dean of Students or designee,
- (c) A notice to the student that he/she has failed to follow-through with the proposed measures and that this will be considered in future action plan crafting should the student continue to exhibit behavior of concern, and/or
- (d) Involuntary removal from housing.

**11.5** A student applying to the College after voluntary or involuntary separation for a reason stated in Section 10.1, must satisfy all academic requirements, in addition to, the requirements put in place by the Dean of Students and/or SOC, if any, at the time of separation from the College. .

**11.6** Once the student has satisfied all re-enrollment conditions, the student will be notified, in writing by the Dean of Students, Case Manager, or a designee of either. Additional requirements of suggested recommendations may accompany the re-entry approval notification. The Student may contest these additional requirements, as per the processes outlined in **APPEALS**, Section 12.

**11.7** In the event that a student is denied re-entry, the processes outlined in **APPEALS**, Section 12.0, are available to the student.

## **12.0 APPEALS**

**12.1** A student has the right to file a written appeal challenging any SOC decision directly affecting that student. Such an appeal must be directed to the Executive Vice President for the Division of Student Affairs within 5 working days of SOC decision being challenged. The Executive Vice President for Student Affairs is the final level of appeal within the College for any matter brought before the SOC. The appeal must state the action complained of, the basis for the appeal, and the remedy sought.

**12.2** The only grounds for a reversal of the Committee's decision are

- (a) A significant deviation from procedures that affected the outcome of SOC's deliberations;
- (b) New evidence that was not available at the time of the Committee's decision; or
- (c) Discrimination against the student in violation of the College Policy entitled, *Prohibition Of Discrimination and Harassment, Including Sexual Harassment and Abuse*.

## **13.0 RECORDS**

**13.1** The SOC shall maintain such records as may be necessary and appropriate to carry out its responsibilities under this Policy. SOC records will be maintained in such place or places as may be directed by the Dean of Students.

**13.2** At minimum, the Dean of Students shall:

- (a) Ensure that all of its records are stored in a safe place and under lock while not in use;
- (b) Take reasonable precautions to ensure that its records are accessible only as provided for in this Policy; and
- (c) Provide for the destruction of its records in accordance with a records retention policy that is approved by the College Institutional Records Officer.

#### **14.0 ASSESSMENT OF SOC OPERATIONS**

**14.1** The Students of Concern Committee will develop relevant assessment criteria to periodically review and evaluate the effectiveness of the College's plans and procedures to assist students of concern. In gathering information relevant for assessment, the Students of Concern Committee shall, among other things:

- (a) Add questions to such surveys distributed to students and employees as may be appropriate in an attempt to detect awareness levels of this Policy held by students and employees; and
- (b) Track annually of the number and type of cases referred to and processed by the Students of Concern Committee.

#### **15.0 SOC AND THREAT ASSESSMENT**

**15.1** During SOC review of cases, attention will be made to identifying and characterizing behavior that reasonably appears to indicate an escalation of undesirable behavior patterns. In the event that reported behavior or actions reveals an escalation of disruption or threat to others or property, the Dean of Students, Case Manager, SOC subgroup, or full SOC will adjust the student's plan of action. Special attention will be made to apparent escalation of dangerous, threatening or aggressive behavior.

**15.2** In order to facilitate the threat assessment process, the Dean of Students, Case Manager, SOC subgroup, or full SOC will employ threat assessment tools commonly accepted in the arena of higher education. Such tools provide a framework by which the SOC can better judge an individual's prior and current behavior and develop an appropriate response and action plan.

**15.3** In cases of imminent threat, Public Safety will be notified immediately. See 7.2 and 7.7.

#### **16.0 RELATIONSHIP BETWEEN SOC EMERGENCY MANAGEMENT TEAM**

**16.1** The College of Charleston Emergency Management Team (EMT) includes members of the Students of Concern Committee but is a separate entity. The EMT is convened at the request of the Chief of Public Safety.

**16.2** The SOC, a subgroup of the SOC, the Dean of Students, or the Case Manager, or designee, will be available to share information to the EMT in the event that a campus emergency involves a current or former student of concern.

#### **17.0 RESPONSIBILITIES UNDER THE CLERY ACT**

Nothing contained in this Policy shall be construed to modify, in any way, the College's responsibility under law (20 U.S.C. § 1092(f)) to make timely reports to the Campus Community on crimes considered to be a threat to students and employees that have been reported to campus security or local law police agencies.

#### **18.0 AMENDMENTS**

This Policy may be amended in accordance with the College's *Campus Wide Policy Making Procedures*.

## **19.0 RESPONSIBILITY**

The Dean of Students shall be responsible for the maintenance of this Policy.

## **20.0 EFFECTIVE DATE**

This Policy shall become effective immediately and shall be fully implemented.

# **30. Missing Person Notification Policy and Procedure**

## **1. PURPOSE**

This Policy and Procedure describes the nature and extent of notifications that will be provided in the case of a Residential Student who is determined to be missing for a period of 24 hours or longer by the College Department of Public Safety.

## **2. APPLICABILITY**

This Policy and Procedure applies only to students who are lawfully occupying College provided housing. Such housing may be in a resident hall located on campus or in any other facility that is rented or leased by the College for the purpose of providing residential housing to its students. For purposes of this Policy and Procedure, a "Residential Student" shall be deemed to be a student who is lawfully residing in such a facility.

## **3. POLICY**

### **3.1 Notice**

At the beginning of each Academic year the Department of Residence Life and Housing shall inform each Residential Student that such student has the option to identify an individual to be contacted by the College not later than 24 hours after the time that the student is determined missing. In addition to the foregoing, the Department of Residence Life and Housing shall --

- A.** Provide each Residential Student a means to register confidential contact information of a person (the "Confidential Contact") in the event that the such student is determined to be missing for a period of more than 24 hours;
- B.** Advise each Residential Student who is under 18 years of age, and not an emancipated individual, that the College is required to notify a custodial parent or guardian not later 24 hours after the time that the student is determined to be missing; and
- C.** Inform each Residential Student that the College will notify the appropriate law enforcement agencies not later than 24 hours after the time that the student is determined missing by the College Department of Public Safety.



### **3.2 Emergency Contacts**

If the College Department of Public Safety makes a determination that a Residential Student who is the subject of a missing person report has been missing for more than 24 hours and has not returned to the campus, the College will initiate the emergency contact procedures in accordance with the student's designation of a Confidential Contact and this Policy and Procedure.

## **4. NOTIFICATION PROCEDURES**

### **4.1 Mandatory Notification of Public Safety**

The Residence Life and Housing Department shall inform the Department of Public Safety immediately upon any reasonable suspicion that a Residential Student is missing. All other members of the College Community shall report to the College Department of Public Safety any student who is missing under circumstances that reasonably appear to be unusual, serious, or troubling.

### **4.2 Action of Public Safety**

If a Residential Student is deemed to be missing for more than 24 hours by the College Department of Public Safety, that Department shall --

- A.** Notify the Executive Vice President for Student Affairs that such student has been missing for more than 24 hours;
- B.** Notify the Confidential Contact as rapidly as possible under the circumstances; and
- C.** If each Residential Student is under 18 years of age, and not an emancipated individual, immediately contact the custodial parent or legal guardian of such student.

### **4.3 Referral to Outside Authorities.**

In addition to making the notifications under Section 4.2, the Department of Public Safety may also contact such other law enforcement authorities as may be appropriate under the circumstances, provided that, it must contact local, state, and/of federal authorities and the National Crime Information Center of the Department of the Justice in the event that the Residential Student is under the age of 21. Moreover, in any case when (a) there is an indication of a forcible abduction or other crime against the person; or (b) the missing Residential Student has not designed a Confidential Contact, the Department of Public Safety shall make an immediate referral to one or more appropriate law enforcement authorities.

### **4.4 On Campus Investigations**

The Department of Public Safety shall conduct investigations of missing Residential Students on campus and may use any lawful method to do so.

## **31. Rights of Students with Disabilities under Section 504 of the Rehabilitation Act of 1973 and the Americans with Disabilities Act of 1990**

The College of Charleston and the Graduate School actively and affirmatively seek to accommodate any currently enrolled student with a documented disability according to the regulations established by Section 504 of the Rehabilitation Act of 1973 and the Americans with Disabilities Act of 1990 and its amendments. Services for students with disabilities (physical, psychological, learning disabilities, ADD/ADHD) are provided through the Center for Disability Services located in the Lightsey Center, first

floor, Rm. 104. The web address is <http://disabilityservices.cofc.edu/>. Telephone number (843) 953-1431 (voice) and Fax: (843) 953-7731. SC Relay System 771 or 1-800-735-2905.

Based on these laws, the College of Charleston assures that all programs and services at the College of Charleston are accessible and reasonable academic accommodations that do not affect essential components of the course will be provided to all qualified students.

Students who believe that a violation of their rights has occurred may discuss their complaint informally with an administrator in the Center for Disability Services. If the issue is not resolved informally, or the student does not wish to pursue the issue on an informal basis, students served by the Center for Disability Services may file a formal grievance. (See “Student Grievance Procedure.”)

Students who believe that the adjudication of their complaints was not fair may contact South Carolina Protection and Advocacy (SCP&A), 1569 Sam Rittenberg Blvd., Charleston, S.C. 29407, Voice: (843) 763-8571, Fax: (843) 571-0880. The student may also file a complaint directly with the Office of Civil Rights at the following address: Office for Civil Rights, DC Office, US Department of Education, Customer Service Team, 400 Maryland Ave., SW, Washington, D.C. 20202-1100, (1-800) 421-3481, Fax: (202) 245-6840, [OCR@ed.gov](mailto:OCR@ed.gov) or an OCR Electronic Complaint Form may be submitted. See <http://www.ed.gov/about/offices/list/ocr/complaintintro.html>.

### **32. English Fluency Policy**

Under the provisions of the 1991 English Fluency in Higher Education Act, the South Carolina legislature has mandated that each public institution of higher learning establish a mechanism to “ensure that the instructional faculty whose second language is English possesses adequate proficiency in both the written and spoken English language.” Additionally, the act requires that the institutions “provide students with a grievance procedure regarding an instructor who is not able to write or speak the English language.” A student/faculty ad hoc committee was formed and based upon its recommendation, the following policy is adopted:

One of the primary goals of the College of Charleston is to provide an environment that encourages students to develop an awareness of and a heightened sensitivity towards the individual’s relationship with society within the context of a global perspective. One means to achieve this goal is to foster cultural and ethnic diversity within the academic community. College response has been positive in this regard as evidenced by a steady increase in the population of both international students and faculty in diverse disciplines.

The College also takes great pride in maintaining a faculty who are well prepared in their respective academic areas, and most importantly, demonstrate the ability to communicate this knowledge effectively to their students. In some instances problems can arise for instructors whose primary language is not American English. Effective interaction with students could be severely hampered by insufficient control of English grammar and pronunciation. In most situations, when an instructor speaks with an accent and experiences some difficulty in grammatical usage, students will quickly adjust to the uniqueness of these speech patterns and communication is not affected. Occasionally, however, the most sincere efforts of a well-prepared and scholarly individual will fail because of his or her difficulties with some aspects of the English language.

In 1986, the American Council on the Teaching of Foreign Languages (ACTFL) developed proficiency guidelines addressing performance in speaking and writing abilities in a second language. These guidelines identify stages of proficiency which are intended to allow assessment of what an individual can and cannot do with regard to a particular language skill. In order to ensure that effective communication is not hampered by insufficient control of the pronunciation and grammar of American English, it is recommended that a prospective candidate perform at an advanced level of speaking and writing proficiency.

The following description is provided to assist the faculty in assessing the competency level of English language usage of a candidate.

**For speaking, an advanced level is characterized by the speaker's ability to:**

- Converse in a clearly participatory fashion.
- Handle with confidence but perhaps not with facility complicated tasks and social situations, such as elaborating, complaining, and apologizing.
- Narrate and describe in the present and past tense with some details, linking sentences together smoothly in paragraph-length discourse.
- Communicate facts and talk casually about topics of current public and personal interest, using general vocabulary. Shortcomings often can be smoothed over by communicative strategies, such as pause fillers, stalling devices, and different rates of speech. Some groping for words may be evident, but paraphrasing and rephrasing because of vocabulary or syntactic limitation is usually quite successful.
- Pronunciation, though perhaps marked, should not impede comprehension of speech.
- An advanced-level speaker can be understood without difficulty by native speakers.

**For writing, an advanced level is characterized by the writer's ability to:**

- Write cohesive summaries and resumés, as well as narratives and descriptions of a factual nature, although he or she may still make errors in punctuation, spelling, or the formation of nonalphabetic symbols.
- Demonstrate good control of word formation and the most frequently used grammatical structures, e.g. common word order patterns, conjunctions, and subordinate clauses, but may make frequent errors in producing complex sentences.
- Write with a sense of organization and style approaching English written discourse, but may still resemble literal translations from the native language. Writing is understandable to natives not used to the writing of non-natives.

NOTE: Those students who believe that a faculty member is unable to write or speak English pursuant to the guidelines set forth above may use the section on student grievance procedures found in the College of Charleston *Student Handbook* to resolve this matter.

### **33. Student Grievance Policy and Procedures**

Disputes may occasionally arise between members of the College of Charleston community over both academic and non-academic matters. While many issues can be resolved at the personal level between the two parties, a formal procedure is available for the resolution of disputes that cannot. The procedure which has been established presents a framework within which disputes may be settled. The formal procedure is not meant to change the character of a dispute but to ensure that all parties are treated fairly and that every attempt is made to arrive at a just resolution of the dispute.

#### **Informal Resolution of Dispute**

Since many disputes can be resolved in an informal manner, students having complaints about academic treatment or non-academic matters at the College are strongly urged to attempt to reconcile any differences informally with the faculty or staff member involved. Students should meet with the faculty or staff member to discuss their concerns openly, without fear of reprisal and as soon as possible during the academic semester, since ultimately delay may result in no viable resolution to the dispute. If the student is unable to meet with the faculty or staff member, or if his/her attempt to discuss the issue with the faculty or staff member is not satisfactory, the student should meet with the department chair or program director. Students should continue attending the class in question throughout this process unless they have been instructed not to by the department chair or program director.

If the student elects not to pursue the matter informally directly with the other party, or if s/he does pursue an informal resolution and the parties cannot resolve their differences, the student may initiate the formal process. That process basically will be the same for academic and non-academic disputes and for disputes involving faculty, administrators, or staff.

### **Formal Procedures: Student-Faculty Grievances**

If the student elects to pursue the formal procedure for academic and non-academic grievances against faculty members, s/he must submit in writing to the faculty member's department chair or program director a written grievance which includes the following:

- The act(s) complained of.
- Facts and evidence in support of the complaint.
- An account of attempts to resolve the complaint informally, if any, and the reason(s) those attempts have failed.
- Suggested resolutions to the problem which are acceptable to the student.

The department chair or program director (in consultation with the department chair where appropriate and where consistent with the reporting lines) will have a maximum of 30 days to review the materials, investigate the complaint, and attempt to bring the parties to an agreed-upon resolution. The department chair or program director will notify the parties of his/her decision in writing.

Should an agreed-upon resolution not be reached at this level, the grievance and all accumulated materials will be referred to the dean (or associate dean) of the school. The dean (or associate dean) of the school will have a maximum of 30 days to investigate the complaint and attempt to bring the parties to an agreed-upon resolution. His/her investigation may include interviewing and taking statements from the parties and others, securing documents and evidence from any available sources, and other actions which s/he deems necessary in the circumstances. Failing an agreed-upon resolution, s/he shall make a decision resolving the dispute and promptly notify the parties and the faculty member's department chair or program director of his/her decision in writing.

Graduate Students Only: Either party may appeal the decision of the graduate program director by presenting a written notice of appeal to the dean of the graduate school no later than five (5) working days from receipt of the written response from the graduate program director. The dean of graduate school will further investigate the complaint and attempt to bring the parties to an agreed-upon resolution. His/her investigation may include interviewing and taking statements from all parties and others, reviewing documents and evidence previously compiled, securing additional documents and evidence from any available sources, and other actions which s/he deems necessary in the circumstances. The graduate dean may affirm, reverse, affirm in part, and reverse in part the decision of the graduate program director. The graduate dean will promptly notify the parties, the faculty member's program director and the dean of the school of his/her decision in writing.

All Students, Continued: Either party may appeal the decision of the dean (or associate dean) of the school (in cases involving undergraduates) or the dean of the graduate school (in cases involving graduate students) by presenting a written notice of appeal to the executive vice president for academic affairs/Provost no later than five (5) working days from receipt of the decision by the dean (or associate dean). A copy of the original written grievance and the decisions of the department chair and dean should be attached to the notice of appeal. If the executive vice president for academic affairs determines that the notice of appeal has been filed in a proper and timely manner, s/he will promptly appoint an ad hoc College grievance panel as described below (see "College grievance panel composition") to consider the case. The Provost will notify the parties of the composition of the panel and will instruct the dean (or associate dean) of the school or dean of graduate studies to forward all materials accumulated thus far to the panel chair, who will be designated by the Provost.

The appeal of the decision of the dean (or associate dean) of the school or dean of the graduate school may be on either procedural or substantive grounds and shall constitute a de novo determination of the issues.

Within ten (10) working days after submission of the notice of appeal to the executive vice president for academic affairs, the student may submit to the executive vice president any additional evidence, including written affidavits and other items deemed pertinent to the issues. Within ten (10) working days of notification of an appeal, the faculty involved may submit to the executive vice president for academic affairs any additional evidence, including written affidavits and other items deemed pertinent to the issues. Those materials reviewed or considered by the panel in reaching a decision shall be made available to the parties for their inspection except where confidentiality is required by law.

The panel shall review all materials made available to it. It may also conduct its own investigation and secure further evidence it deems necessary in order to make a decision. It may hear live testimony if it wishes or may ask the parties to orally present their sides of the matter; both parties shall be given an opportunity to attend panel sessions called for these two purposes. Whenever the parties appear before the panel, they may be accompanied by an advisor or an attorney; such person may only advise and cannot address the panel. Those materials reviewed or considered by the panel in reaching a decision shall be made available to the parties for their inspection.

The panel may affirm, reverse, affirm in part, or reverse in part the decision of the dean (or associate dean) of the school or dean of the graduate school or may remand the case to the dean of the graduate school, the dean of the school, or to the faculty member's department chair or program director for a new and final attempt at informal reconciliation which, if the informal reconciliation fails, may not be pursued further. The panel's decision will be sent in writing to the parties, the faculty member's department chair or program director, the dean of the school or the dean of the graduate school, and the executive vice president for academic affairs.

If not satisfied with the panel's decision, either party may, within three (3) working days of receipt of the decision, request that the executive vice president for academic affairs review the decision. If the Provost decides that extraordinary circumstances exist justifying his/her review of the case, s/he will review all accumulated materials and may take any of the actions which were available to the panel. His/her decision will be final.

Any informal reconciliation which is reached at any level of these procedures will result in the purging of all formal records; all that will remain is a signed document setting forth the agreement.

#### **Student-Staff or Student-Administrator Grievances**

The same procedure will be followed except that the immediate supervisor of the staff person or administrator involved in the dispute will substitute for the department chair or program director, and the appropriate college vice president will substitute for the dean (or associate dean) of the school or dean of the graduate school. If conflicts of interest arise or the person designated cannot proceed for any reason, it shall be the responsibility of the executive vice president for academic affairs to appoint persons to fulfill the responsibility of the immediate supervisor and the vice president for purposes of these procedures.

#### **College Grievance Panel Composition**

For grievances filed by undergraduate students, the panel will be composed of:

Two student members of the Honor Board, drawn by lot; and if the dispute is

1. Academic – three faculty members of the academic standards committee, drawn by lot.
2. Non-academic, involving a faculty member or administrator -- three faculty members of the student affairs and athletics committee, drawn by lot.

3. Involves a staff person – three supervising personnel selected by the executive vice president for academic affairs in consultation with the vice president for human resources.

For all grievances filed by graduate students, the panel will be composed of:

1. Two student members chosen by lot from the graduate student conduct committee. Members of this committee will consist of one student from each graduate program, to be designated by the program director (or the dean of the school of education in the case of graduate education programs).
2. Two faculty members selected by lot from the roster of graduate faculty members of the College.
3. One member of the supervising staff of the College, selected by lot from the roster of the academic staff by the executive vice president for academic affairs.

As panel members are selected, any designee who is found to be in a conflict of interest in the case will be excused and an alternate will be selected.

These panels will be ad hoc, and a separate panel will be selected for each dispute or set of related disputes.

#### **South Carolina Commission on Higher Education Student Complaint Form**

If a complaint cannot be resolved after exhausting the appropriate College of Charleston procedure, the student may file a complaint with South Carolina Commission on Higher Education. The link is: <http://oiep.cofc.edu/documents/policies/che-procedures-complaints.pdf> . This link is also available on the Office of the Dean of Students web page, [Student Complaint Form](#).

### **34. Classroom Code of Conduct**

“Published by the President’s Advisory Committee in cooperation with the Office of the President.”

1. While there are many informal situations in which people have neither the desire nor the right to prescribe how others ought to behave, a college classroom requires a higher level of courtesy than many people exercise in ordinary public space. Everyone in a classroom is there for the purpose of learning, and no one should be able to deprive another person of the chance to learn. Expressions of rudeness and even of carelessness degrade the high purpose of learning that should be paramount in a college classroom. Your professor expects that you as a student:

- 1.1 Will be attentive and courteous during class.
- 1.2 Will complete the assigned work according to the course schedule.
- 1.3 Will do all your own work and will not present anyone else’s work as your own.

#### **2. Some More Specific Principles of Civil Conduct in a College Classroom:**

- 2.1 Do not cut classes, come in late, or leave early. If you ever are late for class, enter in complete silence and do not walk between the class and the professor. Never leave during class unless you absolutely must. Leaving for a short break and then returning is not acceptable. The professor is not a TV set, but is a person addressing the class, and it is rude to leave when someone is addressing you.
- 2.2 Likewise, it is rude and unacceptable to talk with classmates while the professor (or another student who has the floor) is talking.
- 2.3 Turn off cell phones and all other prohibited electronic devices.
- 2.4 Eating or drinking are not acceptable during class.
- 2.5 Wearing a hat that conceals your face is rude because the person who is addressing you cannot see you.

- 2.6 Visible and noisy signs of restlessness are rude as well as disruptive to others. If you cannot sit still or stay awake, you should not be taking a college class. Do not begin packing your book bag or otherwise indicate that you think it is time for class to come to an end; wait for the professor to dismiss class. If the class period has ended but the professor has not finished and you cannot stay any longer, leave in complete silence.
- 2.7 Come to class prepared to work. Bring writing materials and any other necessary instructional material with you, such as your text book, workbook, computer disks, etc. Make necessary financial arrangements so that you can purchase all such material at the beginning of the semester. It is a waste of money to pay for a class and then not buy the books you will be reading. Your professor expects you to obtain all necessary material in order to succeed in the course. Your professor also expects you to prepare for class by completing reading and homework assignments. If you are unprepared for class, this may prevent you from participating in a class activity. Do not present your lack of preparation as a problem for the professor to solve or excuse.
- 2.8 Submit work and take tests on schedule. If you miss a test or fail to turn in work on time, you may not have the opportunity to make it up.
- 2.9 The Honor Code prohibits lying, cheating, plagiarism and stealing; this is, of course, the most basic and most important of all principles of civilized academic behavior. For more information about or to report a violation of the Honor Code, contact the Dean of Students.

## **35. Administrative Regulations**

### **1. Class Absences and Student Health Services**

Students who have been evaluated by a clinician at Student Health Services and for whom it has been determined that the student should not attend class, will receive an "Absence Memo Request" form to complete. This form will be signed by the licensed clinician and faxed to the Director of Absence Memo. Students who have managed their own illness may complete a separate "Absence Memo Request" which will include a brief description of their medical condition. These forms can be found at the Absence Memo office and online at <http://studentaffairs.cofc.edu/about/services/absence.php>. They can be faxed to the Director. Students who have received treatment through other sources should bring that documentation to the Director of Absence Memo (67 George Street). The Director will e-mail the student's instructors regarding the absence. If there is a difficulty, the Director or his/her designee will attempt to reach the student through College of Charleston email. Ultimately, the decision to excuse the student from class can only be made by the faculty.

### **2. Amplified Sound Policy**

In an effort to continue to develop Student Life at the College of Charleston and promote an increased sense of community on campus, the Division of Student Affairs has created the following policy for the use of amplified sound on-campus in connection with programs and events held on weekdays during business hours during the upcoming academic year:

- 2.1 Events requiring the use of amplified sound that are scheduled Monday – Friday between the hours of 8 a.m. and 9 p.m. will be held in the Stern Center Gardens.
- 2.2 Space reservations for the Stern Center Garden will be accepted on a first-come, first-serve basis through the Office of Student Life and must be approved in advance by the Director of Student Life.

- 2.3** The Office of Student Life and the Division of Student Affairs will provide information related to any special previously approved events requiring amplified sound in a timely manner to the Provost's Office so that advance notice of events can be distributed to faculty members and academic departments.
- 2.4** The use of amplified sound will not be permitted during the hours of 8 a.m. – 9 p.m. on weekdays in areas immediately adjacent to offices or classrooms facilities (i.e. Maybank Hall, the Cistern, etc.). As always, student organizations will be allowed to host informational tables and programs that do not require amplified sound at these locations.
- 2.5** Requests for exceptions to this policy must be submitted in writing to the Director of Student Life no less than two weeks (fourteen calendar days) prior to the proposed date of the event. A committee comprised of representatives from the student body, faculty and staff of the College of Charleston will convene to review the request and will notify the requestor in writing of the committee's decision. An Event Planning Form must be completed and all prior approvals for the proposed event (space reservation, Public Safety staffing, etc.) must be received before the proposed event is submitted to the committee for review. Contact the Office of Student Life at (843) 953-5726 if you have any questions regarding this policy or campus programming.

### **3. Debts**

The maturity of students is reflected in part by the manner in which they meet financial obligations to the community and to the College. Transcripts of students whose accounts are in arrears will not be released to them or to any agency or institution for the benefit of the student. Students cannot graduate from the College and may be refused the privileges of registering for courses if their college accounts are in arrears.

### **4. Delinquent Accounts**

If an account becomes delinquent, the College reserves the right to assign the account to a collection agency. Therefore, the student will be responsible for all collection costs, any additional attorney fees, and court costs.

### **5. Demonstrations**

Demonstrations should be scheduled two weeks in advance with the Executive Vice President for Student Affairs. The information required is a specific location, the beginning time, the ending time, and the name of the sponsoring organization. Demonstrations must be orderly and may not block entrances to buildings or interfere with free flow of pedestrian or vehicular traffic. If an amplification system is used, reasonable volume level will be determined by location and time of day. Failure to comply with these regulations may result in penalties, including loss of demonstration privileges.

### **6. Student Email**

Email is considered an official method for communication at the College of Charleston. Official email communications are intended to meet the academic and administrative needs of the campus community. The College has the right to expect that such communications will be received and read in a timely fashion. To enable this process, the College ensures that all students can be accessed through a standardized, college-issued email account throughout their academic years at the College of Charleston.

Students are expected to check their College of Charleston official email on a frequent and consistent basis in order to remain informed of College-related communications. Checking email on a daily basis is recommended. Students have the responsibility to recognize that certain communications may be time-critical.



## **7. Identification/Debit Cards**

All students are issued identification/debit cards which they should carry at all times. The cards are the means of identifying students for library privileges, student health services, athletic events, the meal plan, social events, check cashing, and other college functions or services open to them as students. Students are expected to present their cards upon request to any college official or employee. Any student whose identification/debit card is lost or destroyed may purchase a new one from the Cougar Card Office. Fraudulent use or transfer of an identification/ debit card is considered a violation of the Honor System.

## **8. Lactation Policy**

The purpose of this policy is to provide nursing mothers who are students with a private place to express break milk. The College has designated lactation rooms on the main campus and at the North campus. Students may contact the Office of Human Relations at 843.953.5512 for room locations and access information. Students may secure access to the lactation room in the Stern Student Center at the front desk in the Stern Center.

The College is not responsible for the integrity or security of breast milk stored in any refrigerator on campus. Nursing mothers may use the provided campus refrigerators or may bring personal coolers to store breast milk.

After each use, students using the designated lactation rooms must use care to wipe off all contacted surfaces with the provided sanitation wipes. The College will also ensure that the designated room are regularly cleaned as appropriate by custodial staff.

## **9. College Requirement for Student Contact Information**

All College of Charleston students are required to provide the College accurate and timely information regarding their local and permanent addresses, local and permanent phone numbers, and emergency contact information. Addresses, phone numbers, and emergency contacts are to be updated on a timely basis by students via MyCharleston and Banner Self-Service under Personal Information:

- View Phones
- Update Phones
- View Addresses
- Update Addresses
- View I.C.E. Emergency Contacts
- Update I.C.E. Emergency Contacts

Local address- This needs to be a physical address and not a PO Box. This is where a student lives in the Charleston area while enrolled at the College. The phone number used locally is also required.

Permanent address-The address which a student considers home. Often this is the parent/guardian's address. A phone number is also required.

Emergency contacts should include the person(s) that the College should contact on the student's behalf in the event of an emergency. Name, address, phone, and relationship are required. More than one emergency contact may be listed.

Students under the age of 21\* are also required to provide and update parent/guardian addresses and phone numbers. This can be done as one Parent/Guardian address and Phone number or as Parent 1 and Parent 2. This information is entered under Update Phones and Update Addresses as a type of phone and a type of address.

Please direct inquiries to [Registrar@cofc.edu](mailto:Registrar@cofc.edu) or 843.953.5668.

*\*who are not legally emancipated*

## **10. Posting Policy\***

**10.1.** Academic and administrative departments will control, manage and maintain their own bulletin boards.

**10.2.** All other campus bulletin boards will be deemed for use by either

- A.** Off-campus activities or
- B.** On-campus activities.

**10.3.** Off-Campus Activities

**A.** Advertisements for legal off-campus activities will be limited to postings on the out-of-doors bulletin board located at the outside the west entrance of Maybank Hall and other select locations. The boards will be marked as “Off-Campus Activities.”

**B.** The College of Charleston Physical Plant will be responsible for the cleaning and maintenance of all outside bulletin boards including the Off-Campus Activities boards. Once a week these boards will be cleared of all advertisements.

**10.4.** On-Campus Activities

**A.** The Office of the Dean of Students will manage and maintain all non-departmental bulletin boards on campus.

\*For the companion policy concerning student organizations and student elections see *The Compass*.

## **11. Speakers on Campus**

Any registered student organization wishing to sponsor a speaker on campus is encouraged in their sponsorship to afford the campus community exposure to many points of view. Should the Executive Vice President for Student Affairs have reasonable apprehension founded in fact that a speaker’s activities would cause a substantial disruption at the College, s/he may prohibit the appearance of the speaker. This is to assure that our community remains an open forum of ideas shared in a civil environment.

## **12. Use of Facilities**

Registered student organizations are encouraged to present their events and hold meetings in campus facilities. Contact the appropriate facility reservationist to determine facility availability. If a facility-use form is required, go to the Stern Student Center for information and referral or complete the reservation on line. Unauthorized entry into, occupation of, or use of College facilities is illegal and will result in disciplinary action, with penalties ranging from reprimand to suspension, in addition to possible legal action.

## **36. Tobacco-Free Campus Policy**

The Tobacco-Free Policy <http://policy.cofc.edu/documents/6.1.5-07012014.pdf>

Adoption Date: October 18, 2013

Implementation Date: July 1, 2014

## **1.0 Preface**

It is the intent of this Tobacco--Free Campus Policy to promote a safe, clean, and healthy environment for College of Charleston (hereafter, "College") employees, students, visitors, and guests.. The Policy shall promote the existence of a tobacco--free environment for our campus community, so that the negative effects of tobacco use are minimized for community members. 1

Reasonable and ongoing efforts shall be made to alert the campus community, including visitors too campus, regarding the status off the College as a tobacco-free campus. Appropriate signage on campus shall describe the Policy.

Effective implementation of this policy depends on the courtesy, cooperation, and respect of all members of the campus community. The College of Charleston promotes a safe, clean and healthy environment on all its property and prohibits smoking inside and at all designated smoke-free entranceways to College facilities.

## **2.0 Definition**

Except as otherwise specified in this Policy, "tobacco products" include, but are not limited to, cigarettes; cigars; pipes; chewing tobacco; snuff; electronic cigarettes 2; water pipes (hookahs); bides; kreteks; and all other technologies or device's allowing for the ingestion, combustion, inhalation, or other use of tobacco..

## **3.0 Statement of Policy**

Use of all tobacco products is prohibited in all College-owned or leased buildings; in all buildings on College-owned or leased land; on all College-owned or leased property, including outdoor seating areas; and in all College-owned, leased, and rented vehicles. Use of tobacco products is prohibited in all those places here identified, including but not limited to, offices (including private offices), classrooms, laboratories, stairwells, elevators, restrooms, hallways, porches and piazzas, rooftops, indoor and outdoor athletic facilities, residence halls and historic properties, shuttle buses, shuttle bus stops, parking structures and parking areas on College-owned or College-leased property, sidewalks on College-owned or College-leased property, lobbies and waiting areas, outdoor benches, green spaces on campus, and other common areas.

Use of tobacco products is permitted in personal vehicles parked or being driven on College-owned or leased property, provided that the windows and doors of such personal vehicles are closed (i.e., tobacco products are used in an enclosed vehicle space) and tobacco waste products are stored in the vehicle and disposed of at off-campus locations.

This policy does not restrict or prohibit the lawful possession of tobacco products on the College of Charleston campus.

## **4.0 Exceptions**

The President of the College (or the President's designee), at his or her sole discretion, may permit limited and appropriate individual exceptions to this policy in support of the requirements of sponsored research related to tobacco, consistent with the mission of the College. Such exceptions must be made in writing and shall be in effect only for the duration of the research study. Smoke produced in the conduct of such sponsored research shall be treated as a contaminant and controlled.

The President of the College (or the President's designee), at his or her sole discretion, may permit limited and appropriate individual exceptions to this policy (e.g., in support of religious or artistic activities), consistent with the obligations of Constitutional law and other applicable laws and regulations. Such exceptions must be made in writing and shall be in effect only for the duration of the activity approved by the President (or the President's designee). Smoke produced in the conduct of such activity shall be treated as a contaminant and controlled.

Use of tobacco products may be permitted on properties the College owns but leases or regarding which the College otherwise conveys an interest (e.g., an easement) to a non-College party, according to the provisions of the applicable lease or agreement, upon a compelling reason, and with the prior written approval of the Executive Vice President for Business Affairs (or her or his designee).

### **5.0 Sale and Advertisement of Tobacco Products**

The sale, sampling, or advertisement of tobacco products shall be prohibited on the College of Charleston campus and in all College publications.

### **6.0 Policy Coverage**

This Policy shall be applicable to the College Board of Trustees; faculty and staff of the College, whether part-time, full-time, or temporary; students while attending or employed by the College; contractors and consultants performing work or providing services on College-owned or leased property; individuals and organizations renting, leasing, or otherwise granted permission to use campus facilities; College affiliates; alumni and alumnae, guests, visitors, or invitees of the College; and members of the general public. All members of the campus community and members of the general public shall comply with this policy. .

### **7.0 Policy Violation and Discipline**

Employees of the College may be disciplined for violation of this policy, consistent with the provisions of College Policy 9.1.2. Students of the College may be disciplined for violations of this policy, consistent with the Student Code of Conduct.

Other individuals who violate Policy 6.1.5 and are not covered by the terms of Policy 9.1.2 or the Student Code of Conduct may be warned by the Department for Public Safety. Visitors or members of the general public who refuse to comply with the Policy may be asked to leave campus by the Department of Public Safety.

### **8.0 Policy Maintenance**

Unless other individuals are designated by the President of the College, the Vice President of Human Resources and the Executive Vice President for Student Affairs shall be responsible for the maintenance of this Policy. Those responsible for the maintenance of the policy shall cause a review of this Policy to be undertaken at least once during each five-year period.

### **9.0 Operating Procedures**

The President's Executive Team, subject to review and determination by the President of the College, may approve operating procedures to implement this Policy. Such procedures may not be inconsistent with this Policy nor may they eliminate or expand the scope of the prohibitions already described in the Policy.

### **10.0 Effective Date**

Effective July 1, 2014, the predecessor Policy 6.1.5, "Smoking Policy," as adopted in 2006, is repealed in its entirety and replaced by the new Policy, "Tobacco-Free Campus Policy," also to be designated Policy 6.1.5. The predecessor Policy 6.1.5, "Smoking Policy," shall remain in effect through June 30, 2014. No penalty shall be levied under the terms of the new Policy prior to July 1, 2014

### **11.0 Amendments**

This Policy may be amended consistent with the provisions of the Campus Wide Policy Making Procedures.

1. Effective October 21, 2013, and until December 31, 2015, and as resources permit, the College shall provide cessation programs for all members of the campus community who wish to end their use of tobacco products. Additional information on tobacco cessation programs is available from the South Carolina Department of Health and Environment Control (DHEEC) at 803.545.4467 and at <http://www.scdhec.gov/Health/TobaccoCessation/>

2 Electronic cigarettes use liquid nicotine, which is derived from tobacco plants. Testing by the Food and Drug Administration has found known carcinogens and toxic chemicals in some of the nicotine cartridges for two leading brands of electronic cigarettes.

**SANCTIONS.** THIS SECTION IS NOT PART OF THE POLICY ABOVE AND APPLIES TO STUDENTS ONLY. THE EXPECTATION IS THAT STUDENTS WHO USE A TOBACCO PRODUCT OR ANY OTHER PROHIBITED ITEM BY THIS POLICY ON CAMPUS PROPERTY WILL PROMPTLY AND APPROPRIATELY DISPOSE OF THE PRODUCT OR MOVE OFF CAMPUS PROPERTY WHEN ASKED BY ANY MEMBER OF CAMPUS COMMUNITY. MEMBERS OF THE CAMPUS COMMUNITY SHOULD FORWARD TO THE OFFICE OF THE DEAN OF STUDENTS THE NAME OF ANY STUDENT WHO FAILS TO COMPLY WITH AN APPROPRIATE REQUEST.

**First Violation** (Resolution by Student Affairs official) Sanctions may include, but are not limited to:

A. Receiving a verbal warning.

**Second Violation** (Resolution by Student Affairs official) Sanctions may include, but are not limited to:

A. Receiving a verbal warning and

B. Educational and restorative activity.

**Third Violation** (Resolution by Student Affairs official/Conduct Body) Sanctions may include, but are not limited to:

A. Receiving a written warning and

B. Educational and restorative activity.

### **37. The Office of the Institutional Ombudsperson**

Ms. Deni Mitchell  
ombuds@cofc.edu  
843.953.5822  
Room 207, Randolph Hall

#### **1. The role of the Ombudsperson**

As an advocate for fairness, the Ombudsperson acts as a source of information and referral, responds to questions presented by individuals and provides assistance in the resolution of concerns, problems, and informal complaints. The Ombudsperson does not have authority to take disciplinary action or reverse decisions. In addition, the Ombudsperson does not arbitrate, adjudicate, or participate in any internal or external formal proceedings. The Ombudsperson shall consider the rights of all parties involved. The Ombudsperson reports to the President of the College. This role requires neutrality and confidentiality, requirements that are necessary to create trust between the persons involved in a dispute and the Ombudsperson. However, when the Ombudsperson determines there is a threat of imminent harm or is ordered by a court or requested by law to disclose information, confidentiality will be waived.

#### **2. Responsibilities of the Ombudsperson**

- 2.1 The primary duty of the Ombudsperson is to listen.
- 2.2 Ensures that all parties are aware of their rights and responsibilities regarding College policies and procedures.
- 2.3 The Ombudsperson does not participate in any internal or external formal proceedings.
- 2.4 Works to facilitate communication and assist parties in reaching mutually acceptable agreement in order to find fair and equitable resolutions to conflicts or concerns.
- 2.5 Apprises the administration of significant trends.

## APPENDIXES

### Appendix A. Academic Dishonesty and the Operation of the XXF – Transcript Notation Due to Finding of Responsibility for Academic Dishonesty

**Faculty input** – When a faculty member determines a student has committed academic dishonesty, he or she will fill out the appropriate Honor Code Report form. The faculty member has the option of designated whether he/she believes that the offense warrants the grade of XXF.

#### Schedule of Sanctions for Violations of Academic Dishonesty

A. Class 1. The most serious breaches of academic honesty fall into this category, as well as all second or more offenses of any class. Class I violations must be found to involve significant premeditation; conspiracy and/or intent to deceive. See listing of examples at the end of this policy.

Sanction options:

XXF grade and suspension

XXF grade and expulsion

B. Class 2. This class includes acts that are found to involve deliberate failure to comply with assignment(s) directions; some conspiracy and/or intent to deceive. See listing of examples at the end of this policy.

Sanction options:

XXF grade and disciplinary probation

XXF grade and disciplinary probation and/or other educational sanctions

XXF grade and some form of suspension

C. Class 3. This class includes violations due to student confusion; ignorance and or miscommunication or incomplete communication between the instructor or his/her designee and the class. See listing of examples at the end of this policy.

#### **Class 1 and 2 Violations**

- A. If the Honor Board sanctions a student with a course grade of XXF, and this sanction is not appealed by the student, the dean of students and the faculty member notify the Registrar to place a grade of XXF for the applicable course on the student's academic record. The grade XXF shall be recorded on the student's transcript with the notation "failure due to academic dishonesty."
- B. Student appeals of the XXF grade follow the procedure for all other appeals of academic dishonesty sanctions, as outlined in the *Student Handbook*. If the Appellate Board denies the right to another hearing, or another hearing is granted and the Honor Board decides to uphold the XXF grade sanction, the dean of students and the faculty member notify the Registrar to assign the XXF grade to the student's academic record.
- C. If grades are due but an academic dishonesty hearing is still in progress, a grade of 'T' shall be applied to the course until the hearing process is complete.
- D. An XXF grade shall maintain a quality point value of 0.0. The grade "XXF" shall be treated in the same way as an "F" for the purposes of Grade Point Average, course repeatability, and determination of academic standing.
- E. The XXF must stay on the transcript for at least two years from the date student is found in violation.
- F. After two years, a student may petition the Honor Board to exchange the XXF for an F. The petition must be in written form and provide the reason for removal of the XXF. Additionally, the petitioner must appear before the Honor Board to explain the request (appearance may be through electronic means if necessary). If the student petitions and a majority of the Honor Board agree to remove the XXF, the Honor Board outlines conditions under which the XXF is removed. The conditions may include giving testimony of dishonesty during freshman orientation or other organized Honor Board events, and/or performing specific tasks aimed at increasing the education of the violator and/or campus on the value of academic integrity. When these conditions are met, the XXF is removed entirely from the transcript, leaving no past evidence of the XXF. A grade of F is recorded in its place.
- G. If a petition to change an XXF grade to an F has been made and denied, another petition may not be made for another year from the date of denial. This stipulation applies after graduation as well.
- H. If the student is/has been found responsible of an additional violation of academic honesty, either in the past or future, the XXF remains. For cases where the XXF was changed to an F and the student is later found responsible of an additional act of academic dishonesty, the XXF grade is restored for the course. In these cases, the XXF remains permanent. The student may not petition for an F in exchange for the XXF in these cases.
- I. A student who has received an XXF in a course and needs to pass the course for a requirement may retake the course. If the student passes the course, the requirement is met,

but the original course grade will remain as an XXF unless the X is removed by an accepted petition for removal.

### **Class 3 Violations**

- A. When a faculty member suspects an Honor Code violation is more of a result of student confusion, ignorance or miscommunication, he/she should arrange a conference with the student as soon as possible to discuss the matter.
- B. Together, the faculty member and student review all materials.
- C. The faculty member proposes a response which is discussed with the student, e.g., zero on the assignment, written warning, resubmission of the work, research on relevant topic, etc.
- D. The faculty member and student agree upon a response and commit the agreement to a form provided by the Dean of Students.
- E. A written record of the educational response with the signatures of both the faculty member and the student is forwarded to the Dean of Students. The record will remain in the Dean of Students office until the student graduates.
- F. The record of the educational response for this violation will be introduced in subsequent hearings during the sanctioning phase should the same student be found in violation of the Honor Code at a later point in time.
- G. The student has the right to contest the allegation and/or the suggested response and request that the matter be forwarded immediately to the Dean of Students for adjudication under the procedures outlined in the *Student Handbook*.

**Changes to the operation** of the XXF grade as a sanction option within the Honor System must go through the Faculty Committee on Academic Standards and the Faculty Senate.

**Examples of violations for Classes 1-3.** The lists below are not meant to be comprehensive but illustrative of the types of acts that generally will be before the Honor Board and faculty members.

#### **Examples of Class 1 violations:**

cheating on a test which involves significant premeditation and conspiracy of effort,

taking a test for someone else, or permitting someone else to take a test or course in one's place,

intentional plagiarizing, where the majority of the submitted work was written or created by another,

obtaining, stealing, or buying all or a significant part of an unadministered exam,

selling, or giving away all or a significant part of an unadministered test,

bribing, or attempting to bribe any other person to obtain an unadministered test or any information about the test,



buying, or otherwise acquiring, another's course paper and resubmitting it as one's own work, whether altered or not

entering a building, office, or computer for the purpose of changing a grade in a grade book, on a test, or on other work for which a grade is given,

changing, altering, or being an accessory to changing and/or altering a grade in a grade book, on a test, on a "Change of Grade" form, or other official academic college record which relates to grades, and

entering a building, office, or computer for the purpose of obtaining an un-administered test.

**Examples of Class 2 violations:**

cheating on an exam which involves some premeditation,

copying from another's test or allowing another student to copy from your test, where some plans were made for such collaboration,

intentional plagiarizing, where a moderate portion of the submitted work was written or created by another,

unauthorized reuse of previously graded work,

intentionally failing to cite information from the correct source,

intentionally listing sources in a bibliography/work cited page that were not used in the paper,

copying, or allowing one to copy, homework assignments that are to be submitted for credit, when unauthorized,

intentionally opening an officially sealed envelope containing an exam, test or other class-related material,

unauthorized and intentional collaboration on an assignment, and

unauthorized and intentional use or possession of a study aid.

**Examples of Class 3 violations:**

record of same offense made on other similar assignments and no feedback provided by the instructor prior to allegation,

reusing and/or building upon coursework already submitted for another class without permission of the professor,

unintentionally failing to cite information from the correct source,

unintentional violation of the class rules on collaboration, and

unintentional possession of a study aid.

## Appendix B. Peer-to-Peer (P2P) File Sharing

### 1. PURPOSE OF POLICY

The purpose of this Policy is to detail the College's plans to effectively combat the unauthorized distribution of copyrighted material by Users of the College's Computer Network and Information Technology Resources, without unduly interfering with the legitimate educational and research use of the Network; and to provide for annual disclosures to students on the College's policies and sanctions related to unauthorized peer-to-peer file sharing, as required by the Higher Education Opportunity Act of 2008 (the "HEOA").

Additionally, this Policy is intended to mitigate the College's potential exposure to security risks and liabilities associated with the exploitation of P2P applications to illegally use, distribute and/or store copyrighted materials on the College's Network.

### 2. POLICY STATEMENT

The College is committed to preventing, in so far as practicable, the misuse of the College's Computer Network and other Information Technology Resources, including but not limited to the unauthorized distribution of copyrighted material by Users of its Computer Network. It is the College's intent to maintain the integrity of its Computer Network, without unduly interfering with educational and research use, by utilizing the methods described in Section 6.0 of this Policy. This Policy does not ban legal P2P file sharing through use of the College Network, and the College will continue to support technologies that facilitate legitimate information dissemination and academic collaboration.

### 3. APPLICATION

#### 3.1 Individuals.

This Policy applies to all individuals (students, faculty, staff, College volunteers, contractors, consultants and other members of the public) who use the College's Network and/or Information Technology Resources ("Users").

#### 3.2 Resources.

This Policy also applies to the College's Network and all other College Information Technology Resources; any other information technology resource made available to the College community through a College vendor sourced network; and other electronic device regardless of ownership when such device is actively using the College Network or is otherwise interfacing with a College Information Technology Resource. The physical location of any computer or other device is irrelevant to whether or not a violation of this Policy exists.

### 4. DEFINITIONS

4.1 The terms below shall have the meaning ascribed next to each:

- (a) **College Computer** - Any computer that is owned, leased or rented by the College of Charleston whether such computer is located on or off College premises.
- (b) **College Network** - Any part of the College's data, voice or video network physically located on any College owned, leased, or rented property or located on the property of any third party with the permission of that party. This includes devices on such network assigned any routable and nonroutable IP addresses and applies to the College's wireless network and the network serving the College's student residence halls and houses, and any other vendor supplied network made available to the College community.

(c) **Digital Millennium Copyright Act (DMCA)** - A federal law passed in 1998 that revised copyright law for the digital environment to, among other things, define how alleged copyright infringements are to be handled and establish liability limitations for "online service providers."

(d) **DMCA Notice** - DMCA or copyright infringement notices are warnings issued from the copyright holder or a representative of the copyright holder. These copyright holders have identified computers on the College's Network as having potentially violated the DMCA and issue warnings regarding the particular infringement to the College.

(e) **IT**-The College's Division of Information Technology.

(f) **Information Technology Resources** - The College Network and all College computers and computer components, electronic storage devices, wiring, and electronic transmission devices owned, leased, rented or operated by the College or and all College owned or licensed software.

(g) **Peer-to-Peer (P2P)** - A network environment where participants share their resources (such as files, disk storage, or processing power) directly with their peers without having to go through an intermediary network host or server.

(h) **Peer-to-Peer File Sharing Applications** - Programs or services that use P2P technology to share music, movies, software, or other digitally stored files.

## **5. PROHIBITED ACTIVITY**

### **5.1 Violations.**

It is a violation of this Policy to use the College Network or any Information Technology Resource of the College to distribute, download, upload, stream, scan, store or share any material including software, data, document, sound, music, video, picture, design, graphic, game, or any other electronic file when:

- (a) the file is copyrighted but distribution to the User has not been authorized by the copyright owner;
- (b) the intended use under the relevant circumstances is specified as illegal by any federal or state law, statute, regulation, proclamation, order, or decree;
- (c) when the material is considered by the College to be Protected Information under the College's Privacy Policy and the User is not authorized to access that information or to access that information for the purpose intended; or
- (d) when the User's intent is deployment or introduction of any virus or malware on any Information technology Resource.

### **5.2 Circumvention Prohibited.**

Users of the College's Information Technology Resources shall not attempt to circumvent, bypass, defeat, or disrupt any device, method, or technology implemented by the College for the purpose of implementing this Policy.

## **6. PROCEDURES FOR COMBATING UNAUTHORIZED P2P FILE SHARING**

### **6.1 Technology-Based Deterrents**

(a) Use of Deterrents. The Senior Vice President for Information Technology (CIO) will utilize technology-based deterrents to combat the unauthorized distribution, downloading, uploading, streaming, scanning, storage or sharing of copyrighted material by Users of the College's Network, and will periodically confer with the President's Executive Team to ensure that all such technology-based deterrents then employed by the College do not unduly interfere with legitimate educational and research uses of the College's Network.

(b) Types of Deterrents. At least one technology-based deterrent must be in use at all times with respect to the College's Network. As determined appropriate from time to time by the CIO, technology-based deterrents may include, but not be limited to, one or more of the following:

- Bandwidth shaping;
- Traffic monitoring;
- Accepting, aggressively pursuing and responding to DMCA notices; and/or
- By using commercial product to reduce or block illegal file sharing.

#### **6.2 Directive Authority.**

For the purpose of implementing this Policy, the CIO shall have directive authority over all vendors to the College, including those vendors who supply internet services to student housing, to direct that such vendors use appropriate deterrents to reduce or prevent illegal file sharing and other violations of this Policy. When exercising such directive authority, the CIO shall consult with the appropriate contract administration officer of the College and ensure that all corrective actions are taken in accord with relevant contract documents.

### **7. EDUCATE AND INFORM THE COLLEGE COMMUNITY**

#### **7.1 Mechanisms.**

The College shall employ, at a minimum, the mechanisms described in Sections 7.2 and 7.3 for educating and informing the College community about the appropriate and inappropriate uses of copyrighted material.

#### **7.2 Institutional Information for Students.**

The College will make readily available to enrolled and prospective students the College's policies and sanctions related to copyright infringement including:

- (i) a statement that explicitly informs its students that the unauthorized distribution of copyrighted material, including peer-to-peer file sharing, may subject the student to civil and criminal liabilities;
- (ii) a summary of the penalties for violation of Federal copyright laws; and
- (iii) this Policy. The disclosure required by this Section 7.2 shall be made in the following manner:
  - (a) Enrolled Students - The Office of the Dean of Students shall be responsible for disseminating annually a notice (of the general nature as set forth in Appendix A to this Policy) to enrolled students regarding the institutional information described in this Section. The methods of dissemination of the Notice may include the College web pages, one-to-one e-mail, orientation presentations, student publications and publication in the Student Handbook and the MyCharleston portal.
  - (b) Prospective Students - The Division of Enrollment Management will post or link a copy of the institutional information on the Admissions web portal for review by prospective students.

#### **7.3 Educating the Campus Community.**

Other members of the Campus community shall be provided institutional information as follows:

- (a) The Addlestone Library will post and maintain the College's Copyright Guidelines and this Policy on its webpage.
- (b) The Division of Information Technology will publish and maintain a webpage devoted specifically to this Policy and P2P file sharing. Such webpage shall contain a list of FAQs and How-To Guides that instruct the campus community about appropriate and inappropriate uses of P2P applications; a summary of penalties for violation of Federal copyright laws; a summary of the results from the periodic review of the effectiveness of the College's plans to prevent the

unauthorized distribution of copyrighted materials by Users of the College's network; and a list of legal alternatives for downloading or otherwise acquiring copyrighted material. The College reserves the right to block the use of any application on the College's Network when it has a reasonable basis to conclude that such application is being used for improper purposes in violation of this Policy.

(c) The Ask the Cougar query on the College's web site shall be modified, as appropriate, to refer to the webpage described in subsection (b) of this Section 7.3 when queries are made relating to the subject matter covered by this Policy.

#### **7.4 Summary of the Penalties for Violation of Federal Copyright Laws.**

The CIO and the Dean of Students, in consultation with the Office of Legal Affairs and utilizing the Federal Student Aid Handbook, shall annually publish a summary of the penalties for violation of Federal copyright laws (the "Summary"). Dissemination of the Summary shall be as follows:

- (a) The Dean of Students is responsible for including the Summary in the annual Notice to enrolled students;
- (b) The Associate Vice President for Enrollment Management is responsible for including the Summary in institutional information made readily available to prospective students; and
- (c) The CIO is responsible for posting the Summary on the IT web page dedicated specifically for P2P as further described in section 7.3(b).

### **8. ENFORCEMENT**

#### **8.1 Generally**

The College's Network, Computers and other Information Technology Resources are not to be used for any illegal purpose including, but not limited to, illegal file sharing. Accordingly, to preserve network security and reliability, the College reserves the right in all instances, and upon its reasonable suspicion, to block access from and to its network of any IP address associated with illegal activity and/or to disconnect any User from the network who can be traced to illegal activities, including illegal P2P file sharing. An infringing User shall bear legal and financial responsibility for events or activities resulting from or associated with his/her own misuse of P2P applications and any other illegal activity conducted by or through the College's network.

#### **8.2 Students. Faculty and Staff**

In addition to barring access to network resources, a student, faculty or staff member who violates this Policy may also be subject to other appropriate discipline, up to and including termination of employment and/or expulsion. No final adverse action may be taken pursuant to this Section, however, with respect to any employee or student of the College unless such employee or student is afforded a meaningful opportunity to contest the adverse action, as further described in Section 9.0.

#### **8.3 Contractors. Vendors. Consultants. Volunteers and Others.**

Any party external to the College, including but not limited to, College contractors, consultants, or vendors found to have violated this Policy may be held in breach of contract and, in such event, may be subject to such sanctions and damages as may be allowed under the contract and/or applicable law including, but not limited to, ineligibility to be considered a responsible source

for subsequent contracting with the College. Other parties who violate this Policy but who do not have a contractual relationship with the College (including volunteers) may be barred from any subsequent use of a College Information Technology Resource.

#### **8.4 Criminal and Civil Liability; Reporting to Government Authorities**

In addition to the actions described in Sections 8.1, 8.2, and 8.3, the unauthorized acquisition or distribution of copyrighted material, including unauthorized peer-to-peer file sharing, may subject culpable individuals to civil and criminal liabilities. To the extent required by federal or state law, or when the College otherwise deems it to be in its best interest, the College will report certain illegal activities to designated law enforcement agencies without prior warning or notice to the infringing User.

### **9. ENFORCEMENT PROCEDURES FOR HANDLING UNAUTHORIZED P2P FILE SHARING**

#### **9.1 Alleged Violations**

Alleged violations of the Digital Millennium Copyright Act (DMCA) shall be received by the IT's Designated Agent for the Receipt of a Claimed Infringement ("Designated Agent"). IT shall respond to all DMCA notices. The receipts of such notices are to be logged in and tracked by IT. Attempts to identify the suspect computer(s) and User(s) will be made by IT staff. In the case of suspected offenders who are students, if successful identification is made, a copy of the notice and name of student(s) identified shall be referred to the Office of the Dean of Students in accordance with Section 9.2(b). In the case of suspected faculty or staff who are successfully identified, the notice and name of the staff or faculty member(s) and relevant identifying information shall be referred to the employee's supervisor. In circumstances when criminal activity is suspected, the CIO shall consult with the Office of Legal Affairs and the College Department of Public Safety before notifying any party.

#### **9.2 Students**

- (a) Generally -- Disciplinary proceedings involving students alleged to have violated this Policy shall be conducted in accordance with those procedures specified in the *Student Handbook*.
  - (b) DMCA -- Violations of the DMCA by students shall be resolved as follows:
    - (1) Upon receipt of an alleged violation of the DMCA, the Designated Agent shall identify the person associated with the IP address cited in the Claim. If the identified person is a college student, IT shall notify the Office of the Dean of Students and the Office of Legal Affairs. The Office of the Dean of Students will notify the student of the claim. Students who receive such notices must respond to the Dean's notice within the period of time specified by the Dean of Students, but in no event later than 3 school days after the notice of claim is received by the student. Such students shall be requested to acknowledge the notice and state whether they have received their own copy of the DMCA claim. If this is a first offense and the student acknowledges a violation of this Policy by admitting to the claim, he/she will be asked to stipulate in writing that he/she will comply with this Policy in the future. If the Office of the Dean of Students does not receive such an acknowledgement and stipulation within the prescribed time period, or if the student challenges the validity of the claim, the Dean will initiate disciplinary proceedings.
    - (2) A second offense of this Policy will become a part of the student's disciplinary record.
    - (3) A third or fourth violation of this Policy will result in an automatic referral to the Honor Board through the Office of the Dean of Students. Sanctions may include fines and/or a disciplinary probation period or expulsion.
- In any situation listed in (1) through (3) of this subsection, the College may suspend the rights of access to the College's network pursuant to Section 8.1 pending the final disposition of the disciplinary matter.

#### **9.3 Faculty/Staff**

Disciplinary proceedings involving faculty alleged to have violated this Policy shall be conducted as provided for in relevant provisions of the Faculty/Administration Manual. Disciplinary proceedings alleging violations of this Policy by staff shall be conducted in accordance with relevant provisions of controlling law and, to the extent applicable, the College's Code of Conduct and Disciplinary Actions and the College's Grievance Procedure. The College may suspend the rights of access to the College's network pursuant to Section 8.1 pending the final disposition of any employee disciplinary action.

#### **9.4 Subpoena**

The College will timely comply with all valid subpoenas seeking the identity of a person alleged to have misused the College's Information Technology Resources for illegal purposes.

### **10. ASSESSING EFFECTIVENESS**

#### **10.1 Assessment**

Within 60 days after the effective date of this Policy, the Division of Information Technology will develop relevant assessment criteria to periodically review and evaluate the effectiveness of the College's plans to prevent the unauthorized distribution of copyrighted materials by Users of the College's computer network. In gathering information for such assessment, the Division of Information Technology shall, among other things:

- (a) add questions to such surveys distributed to students and employees as may be appropriate in an attempt to detect awareness levels of this Policy held by students and employees;
- (b) review of reports annually reflecting utilization of the College Network for the downloading of large files; and
- (c) track annually of the number of file sharing violations reported to the Division of Information Technology.

#### **10.2 Reporting**

Information gathered by IT pursuant to Section 10.1 shall be provided to the President's Executive Team by the CIO. In addition, the CIO shall publish the results of the assessment conducted pursuant to this Section 10.0 on its webpage relating to this Policy.

### **11. AMENDMENTS**

This Policy may be amended in accordance with the College's Campus Wide Policy Making Procedures.

### **12. RESPONSIBILITY**

The Chief Information Officer of the College and the Dean of Students shall be responsible for the maintenance of this Policy

### **13. EFFECTIVE DATE**

This Policy shall become effective immediately and shall be fully implemented no later than July 1, 2010.

## **POLICY**

### **PROHIBITION OF DISCRIMINATION AND HARASSMENT, INCLUDING SEXUAL HARASSMENT AND ABUSE<sup>10</sup>**

**Effective: 7/1/1995; Revised: 3/15/2006; Revised: August 27, 2010**

**THIS POLICY ALSO REPEALS AND SUPERSEDES IN ITS ENTIRETY THE POLICY FORMERLY ENTITLED: "REPORTING RESPONSIBILITIES, INVESTIGATION AND COMPLAINT RESOLUTION FOR PROTECTED STATUS DISCRIMINATION AND/OR HARASSMENT/ABUSE".**

**Effective: 7/1/1995; revised: 3/15/2006; repealed: August 27, 2010**

**THE LANGUAGE USED IN THIS DOCUMENT DOES NOT CREATE AN EMPLOYMENT CONTRACT BETWEEN THE EMPLOYEE AND THE AGENCY. THIS DOCUMENT DOES NOT CREATE ANY CONTRACTUAL RIGHTS OR ENTITLEMENTS. THE AGENCY RESERVES THE RIGHT TO REVISE THE CONTENT OF THIS DOCUMENT, IN WHOLE OR IN PART. NO PROMISES OR ASSURANCES, WHETHER WRITTEN OR ORAL, WHICH ARE CONTRARY TO OR INCONSISTENT WITH THE TERMS OF THIS PARAGRAPH CREATE ANY CONTRACT OF EMPLOYMENT.**

#### **1. APPLICABILITY**

This Policy applies to all members of the COLLEGE COMMUNITY while on College owned or leased property.

#### **2. GENERAL POLICY STATEMENT**

It is the Policy of the College of Charleston to promote and protect a learning and living environment where civil discourse, respect for the individual and appreciation for the diversity of human experiences are valued as compelling academic interests. Accordingly, it is a violation of this Policy for any member of the College community to discriminate or harass students or employees, or applicants for admission to the College or applicants for any College employment position, based on gender, sexual orientation, gender identity or expression, age, race, color, religion, national origin, veterans' status, genetic information, or disability, as proscribed by law and as further described below. In addition, discrimination against members or potential members of the United States uniformed services, as proscribed by the Uniformed Services Employment and Reemployment Rights Act (USERRA), is also prohibited under this Policy. Retaliation against any person arising from the good faith reporting of a suspected violation of this Policy, or for participating in an investigation of discrimination under this Policy, is strictly prohibited.

#### **3. DISPARATE TREATMENT**

Disparate treatment of a member of the college community occurs when a person is singled out and treated less favorably than others similarly situated on the basis of one or more of the discriminatory reasons prohibited by this Policy.

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<sup>10</sup> This Policy is based on statutes, rules, regulations of the Federal and State governments, interpretative case law, and on government explanatory source materials. Many of the provisions in this Policy are verbatim or paraphrased expressions of such materials. However, while this Policy is fully consistent with the law, it is not identical to it.



### **3.1 Age**

It is a violation of this Policy to discriminate against an individual in any aspect of employment because that individual is 40 years old or older, unless a specific statutory or regulatory exception allowing for different treatment applies, as determined by the Office of Legal Affairs. It is also a violation of this Policy to discriminate in any College program or activity on the basis of age, except as may be provided under controlling regulations of the United States Department of Education, as interpreted by the Office of Legal Affairs.

### **3.2 Disability**

It is the Policy of the College that no qualified individual with a disability shall, on the basis of disability, be excluded from participation in, be denied the benefits of, or otherwise be subjected to discrimination under any program or activity conducted by the College. Specially, a handicapped person who meets the academic and technical standards requisite to admission or participation in a College education program or activity shall not be denied admission or participation because of his/her disability.

The College will not discriminate against a qualified individual on the basis of disability in regard to job application procedures, the hiring, advancement, or discharge of employees, employee compensation, job training, and other terms, conditions, and privileges of employment. This includes: (a) any action that has the purpose or effect of limiting, segregating, or classifying a job applicant or employee in a way that adversely affects the opportunities or status of such applicant or employee because of the disability of such applicant or employee; (b) not making reasonable accommodations to the known physical or mental limitations of an otherwise qualified individual with a disability who is an applicant or employee, unless the College can demonstrate that the accommodation would impose an undue hardship on the operation of its business and activities; or (c) denying employment opportunities to a job applicant or employee who is an otherwise qualified individual with a disability, if such denial is based on the need of the College to make reasonable accommodation to the physical or mental impairments of the employee or applicant.

Disabilities caused or contributed to by pregnancy, childbirth, or related medical conditions, for all job-related purposes, shall be treated the same as disabilities caused or contributed to by other medical conditions, under any health or disability insurance or sick leave plan available in connection with employment. Written or unwritten employment policies and practices involving matters such as the commencement and duration of leave, the availability of extensions, reinstatement, and payment of sick leave shall be applied to disability due to pregnancy, childbirth or related medical conditions on the same terms and conditions as they are applied to other disabilities.

### **3.3 Equal Pay**

It is a violation of this Policy to discriminate on the basis of sex by paying wages to employees at a rate less than the rate at which the College pays wages to employees of the opposite sex for equal work on jobs the performance of which requires equal skill, effort, and responsibility, and which are performed under similar working conditions, except where such payment is made pursuant to: (i) a seniority system; (ii) a merit system; (iii) a system which measures earnings by quantity or quality of production; or (iv) a differential based on any other factor other than sex. The College will not, in order to comply with the provisions of this provision, reduce the wage rate of any employee.

### **3.4 Gender Based Discrimination**

It is a violation of this Policy to deny educational benefits or to exclude employment applicants or employees because of pregnancy, childbirth or related medical conditions. Nor shall the College discriminate due to marital or family status with respect to employment opportunities or academic programs and activities.

No person shall, on the basis of sex, sexual orientation, gender identity or expression, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any academic, extracurricular, research, occupational training, or other education program or activity operated by the College or be denied any job opportunity or treated differently with respect to terms, conditions, or privileges of employment.

### **3.5 Genetic Information**

It is a violation of this Policy: (1) to fail or refuse to hire, or to discharge, any employee, or otherwise to discriminate against any employee with respect to the compensation, terms, conditions, or privileges of employment of the employee, because of genetic information with respect to the employee; or (2) to limit, segregate, or classify the employees of the employer in any way that would deprive or tend to deprive any employee of employment opportunities or otherwise adversely affect the status of the employee as an employee, because of genetic information with respect to the employee.

It is also a violation of this Policy to request, require, or purchase genetic information with respect to an employee or a family member of the employee except if the OLA determines that such a request, requirement, or purchase is in accordance with controlling provisions of law and regulation.

### **3.6 National Origin**

It is a violation of this Policy to discriminate because of an individual's, or his or her ancestor's, place of origin; or because an individual has the physical, cultural or linguistic characteristics of a national origin group. When investigating allegations of national origin discrimination, the College will review such matters as (a) marriage to or association with persons of a national origin group; (b) membership in, or association with an organization identified with or seeking to promote the interests of national origin groups; (c) attendance or participation in schools, churches, temples or mosques, generally used by persons of a national origin group; and (d) whether an individual's name or spouse's name is associated with a national origin group.

### **3.7 Race and Color**

It is a violation of this Policy to discriminate against any employee or applicant for employment because of race or color in regard to hiring, termination, promotion, compensation, job training, or any other term, condition, or privilege of employment. No employment decisions shall be based on stereotypes and assumptions about abilities, traits, or the performance of individuals of certain racial groups. It is also a violation of this Policy to discriminate against any student or student applicant in regard to any academic program or activity or any educational benefit because of race or color.

Employment and student opportunities cannot be denied because of marriage to or association with an individual of a different race; membership in or association with ethnic based organizations or groups; or attendance or participation in schools or places of worship generally associated with certain minority groups. Discrimination on the basis of an immutable characteristic associated with race, such as skin color, hair texture, or certain facial features, violates this Policy, even though not all members of the race share the same characteristic.

Discrimination based on color is also prohibited by this Policy. Even though race and color clearly overlap, they are not synonymous. Thus, color discrimination occurs when a person is discriminated against based on the lightness, darkness, or other color characteristic of the person.

### **3.8 Religion**

#### Students:

The College of Charleston community is enriched by students of many faiths that have various religious observances, practices, and beliefs. We value student rights and freedoms, including the right of each student to adhere to individual systems of religion. The College prohibits discrimination against any student because of such student's religious belief or any absence thereof.

The College acknowledges that religious practices differ from tradition to tradition and that the demands of religious observance in some traditions may cause conflicts with student schedules. In affirming this diversity, like many other colleges and universities, the College supports the concept of "reasonable accommodation for religious observance" in regard to class attendance, and the scheduling of examinations and other academic work requirements, unless the accommodation would create an undue hardship on the College.

Faculty are required, as part of their responsibility to students and the College, to ascribe to this Policy and to ensure its fair and full implementation. The accommodation request imposes responsibilities and obligations on both the individual requesting the accommodation and the College. Faculty members are expected to reasonably accommodate individual religious practices. Examples of reasonable accommodations for student absences might include: rescheduling of an exam or giving a make-up exam for the student in question; altering the time of a student's presentation; allowing extra-credit assignments to substitute for missed class work or arranging for an increased flexibility in assignment dates. Regardless of any accommodation that may be granted, students are responsible for satisfying all academic objectives, requirements and prerequisites as defined by the instructor and by the College.

#### Employees:

It is the Policy of the College to accommodate the religious practices of employees and prospective employees. The College will not fail to reasonably accommodate the religious practices of an employee or prospective employee, unless there is finding by the College that the accommodation would result in undue hardship on the conduct of its business.

After an employee or prospective employee notifies the College of his or her need for a religious accommodation, the College has an obligation to reasonably accommodate the individual's religious practices. A refusal to accommodate is justified only when the College determines that an undue hardship would in fact result from each available alternative method of accommodation. A mere assumption that many more people, with the same religious practices as the person being accommodated, may also need accommodation is not evidence of undue hardship.

Some alternatives for accommodating religious practices might disadvantage the individual with respect to his or her employment opportunities, such as compensation, terms, conditions, or privileges of employment. Therefore, when there is more than one means of accommodation which would not cause undue hardship, the College will offer the alternative which least disadvantages the individual with respect to his or her employment opportunities.

When religious practices conflict with work schedules, the supervisor should consider whether one of the following accommodations is suitable and will not present an undue hardship to the College:

- (i) Voluntary Substitutes and "Swaps;"
- (ii) Flexible Scheduling; or
- (iii) Lateral Transfer and Change of Job Assignments.

### **3.9 Uniformed Services**

It is a violation of this Policy to deny initial employment, reemployment, retention in employment, promotion, or any benefit of employment motivated in whole or in part on the basis that a person is a member of, applies to be a member of, performs, has performed, applies to perform, or has an obligation to perform service in a uniformed service of the United States.<sup>11</sup>

## **4. DISPARATE IMPACT**

In addition to discriminatory conduct that is directly targeted to an individual (See **DISPARATE TREATMENT**, Section 3.0), the College will not engage in any employment or academic procedure or practice that, while neutral on its face, will have a disparate impact on persons due to their race, color, religion, gender, national origin, or genetic background unless such a procedure or practice is job related and consistent with business necessity or the educational mission of the College and there is no less discriminatory alternative available.

An employment or academic procedure or practice that has a disparate impact on older workers is not a violation of this Policy if that procedure or practice is based on a reasonable non-age factor (such longevity of employment and benefits accruing under a *bona fide* seniority system or a system of leave accrual).

## **5. SEXUAL HARASSMENT AND HARASSMENT BASED ON LEGALLY PROTECTED STATUS**

### **A. Sexual/Gender Harassment:**

Sexual/gender harassment includes unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature when (1) submission to such conduct is made either explicitly or implicitly a term or condition of an individual's employment or access to or the enjoyment of an educational benefit; (2) submission to or rejection of such conduct by an individual is used as the basis for employment or academic decisions or decisions concerning educational benefits affecting such individual; or (3) such conduct has the purpose or effect of unreasonably interfering with an individual's work or academic performance or other educational benefit or creating an intimidating, hostile, or offensive working, learning or living environment. Additionally, sexual harassment also includes conduct (as described in this paragraph) that is directed at an employee or student because of his or her sexual orientation or gender identity or expression.

Sexually-related conduct forms the basis of a sexual harassment claim if a reasonable person, in view of all the surrounding circumstances, would consider it sufficiently severe or pervasive to interfere unreasonably with academic, other educational, or employment performance or participation in a College activity or living environment.

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<sup>11</sup> Employers should consult with the Office of Human Resources with respect to the re-employment rights of employees who serve in activity duty with a uniformed service.

Sexual harassment most often occurs when one person has actual or apparent power or authority over another; however, it may also occur between individuals of equal status or rank within the College. Sexual harassment may occur between persons of the same gender.

Because faculty occupy positions of particular influence and control over students, when sexual harassment is alleged by a student against a member of the faculty and when the faculty member asserts a defense based on the consent of the student, the College will accord more weight to the student's version of events.

Examples:

Acts of sexual harassment include the following:

- Unwelcome sexual advances or requests for sexual favors based upon gender, sexual orientation, gender identity or gender expression;
- Unwanted physical contact, including touching, pinching or brushing the body;
- Verbal harassment, such as sexual innuendoes, suggestive comments, jokes of a sexual nature, sexual propositions or threats; epithets; slurs; negative stereotyping (including "jokes");
- Non-verbal conduct, such as display of sexually suggestive objects or pictures, leering, whistling, or obscene gestures; written or graphic material (including communications by computers) that defames or shows hostility or aversion toward an individual or group because of gender, sexual orientation, gender identity, or gender expression.
- Repeated, unwelcome requests for social engagements;
- Questions or comments about sexual behavior or preference; and
- Acts of physical aggression, intimidation, hostility, threats based on gender, sexual orientation, gender identity, or gender expression.

Other Types of Prohibited Harassment:

A member of the COLLEGE COMMUNITY shall not, on the basis of race, color, religion, disability, age, genetic background, service in a uniformed service, or national origin, be subjected to conduct that has the purpose or effect of unreasonably interfering with an individual's work or academic performance or other education benefit or creating an intimidating, hostile, or offensive working, learning or living environment. This includes, but is not limited to, threatening, intimidating or hostile acts and verbal, written, or graphic material (including communications by computers) that defames or shows hostility or aversion toward an individual or group based on race, color, religion, disability, age, genetic background, service in a uniformed service, or national origin.

## **6.0 REPORTING DUTIES**<sup>12</sup>

### **6.1 Generally**

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<sup>12</sup> This Policy repeals and supersedes in its entirety the Policy formerly entitled: "Reporting Responsibilities, Investigation and Complaint Resolution for Protected Status Discrimination and/or Harassment/Abuse".

The promotion and protection of a discrimination-free environment is the responsibility of every member of the College Community. The College can take corrective action only when it becomes aware of problems. Timeliness of reporting is extremely important; it allows a more complete investigation and better prevention of recurrence. **Therefore, the College strongly encourages persons who believe that they have experienced or witnessed sexual harassment, other prohibited harassment, or proscribed discrimination, as defined in this Policy, to come forward promptly with their inquiries, reports, or complaints.**

## **6.2 Duty to Report**

Any member of the College community who reasonably believes that s/he has experienced or witnessed discrimination, harassment or abuse proscribed by this Policy has a responsibility to report the situation immediately to one of the Designated Officials listed in Appendix D *Operating Procedures for Processing Initial Complaints Against Faculty and Administrative Staff*.

A member of the College community who witnesses but fails to report such a situation may be subject to the immediate consideration of disciplinary or other remedial action if the failure to report has placed a member of the College community at risk of harm or the College at risk of legal liability. The nature and extent of the action taken, if any, will depend on the following factors: (a) the severity of the circumstances observed; (b) the position/status of the person who observed the incident; (c) the position/status of the observed victim and observed violator; and (d) the consequences of the failure to report or the failure to report in a timely manner.

## **6.3 Additional Duty in Reporting Child Abuse**

South Carolina law requires certain persons to report CHILD NEGLECT OR ABUSE as it affects students and others younger than age 18, even when it occurs outside the College.

Among other designated persons, South Carolina law requires that schoolteachers, counselors, healthcare clinicians, substance abuse treatment staff, childcare workers in any day care center, police or law enforcement officers, and computer technicians, who have reasonable cause to believe that a child's physical or mental health or welfare has been or may be adversely affected by abuse or neglect, as defined by state law, are to immediately report it to the local Department of Social Services or other proper law enforcement agency.

A faculty or staff member who suspects or has any concern regarding child abuse or neglect may report this information promptly to his/her Department Head, Director of Human Relations and Minority Affairs, the Dean of Students, the Campus Police or other law enforcement authority, the Provost, or the General Counsel. College officials who receive such reports shall consult with the Office of Legal Affairs and the College's Chief of Police who will determine the College's duty under the circumstances and, if determined appropriate, will assist in contacting the proper external authorities.

A faculty member or member of the administration who has reason to suspect abuse or neglect and fails to report it is subject to prosecution; however, the person making the report based on valid suspicion and concern is protected by law from both civil and criminal retaliation.

## **6.4 Cooperation**

All Members of the COLLEGE COMMUNITY are expected to fully cooperate, as requested, in any investigation of an alleged violation of this Policy. If the College determines that anyone involved in the investigation has intentionally withheld material information or knowingly provided false information at any time, appropriate disciplinary and/or remedial action will be taken.

## **6.5 Personal Advisers**

Both the COMPLAINANT and the RESPONDENT shall be allowed to have one personal adviser to accompany them throughout all phases of the investigatory process following the making of a COMPLAINT, provided that the adviser –

- (a) acts as a personal adviser only;
- (b) is a member of the COLLEGE COMMUNITY (other than a Trustee or a
- (c) is not a supervisor of the investigator or the decisional authority;
- (d) is not a witness to the alleged violation(s) of this Policy;
- (e) is willing to sign a confidentiality agreement;
- (f) does not have an economic interest in the investigation or its outcome;
- (g) does not disrupt the investigative proceedings or speak for the COMPLAINANT or RESPONDENT and;
- (h) agrees to following the directions of the investigator during the pendency of the investigation.

An adviser (if a College employee) must request permission from the adviser's immediate supervisor prior to leaving her/his workstation during work hours to accompany a COMPLAINANT or RESPONDENT to a meeting or interview held by the investigator. Such supervisor may deny the request if, in the exercise of that supervisor's discretion, the employee's absence for the times requested will adversely affect the operations under the management responsibility of the supervisor, provided that in such event the supervisor may suggest an alternative time that will not adversely affect such operations. Advisers will be considered as performing services within the scope of their employment when acting in accordance with this Section 6.5; however, employees may not spend more than 4 hours during a work week performing services as an adviser.

The opportunity to have a personal adviser is provided as a matter of comity and not as of right. Any violation of one or more condition listed in this Section 6.5, including any breach of a signed confidentiality agreement, or any abuse of this courtesy, will result in the immediate withdrawal of this courtesy for the individual(s) involved.

## **7. RESPONSE AND PROCEDURES**

### **7.1 Prevention**

This Policy will be posted and disseminated to the College community. Among other efforts to disseminate this Policy ---

- (a) the Policy shall be presented and discussed by the Dean of Students, or the Dean's designee, during orientation for new undergraduate students and by the Office of the Graduate School for new graduate students;
- (b) the Office of Equal Opportunity Programs and Minority Affairs will present and discuss the Policy with each new employee, who will be asked to sign a statement that acknowledges that she/he was informed of the Policy and either given a copy of the Policy or directed where to find the Policy on College's Policy webpage;
- (c) the Office of the Provost will ensure that the Policy is shared with all new adjunct faculty and graduate assistants during their orientation. Each adjunct faculty and graduate assistant will be asked to acknowledge that she/he was informed of the Policy and either given a copy of the Policy or directed where to find the policy on the Human Resources webpage; and

- (d) the Executive Vice Presidents shall ensure that this Policy is announced and publicized among all employees currently employed and all students then enrolled as of the effective date of this Policy.

## **7.2 Education**

Appropriate educational sessions will be conducted by the College on an ongoing basis to: (1) inform students and employees about identifying proscribed discrimination (including harassment) and the problems caused by discrimination; (2) advise members of the College community about their rights and responsibilities under this Policy; and (3) train personnel in the administration of this Policy. The Director of Human Resources and the Office of Equal Opportunity Programs and Minority Affairs shall be responsible for planning, coordinating and conducting such sessions, either directly or through the use of outside consultants and experts.

## **7.3 Contractors, Vendors, Consultants, Volunteers and Others**

Any party external to the College, including but not limited to, College contractors, consultants, or vendors found to have violated this Policy on the College campus, or on any property rented or leased by the College, may be held in breach of contract and, in such event, may be subject to such sanctions and damages as may be allowed under the relevant contract and/or applicable law including, but not limited to, ineligibility to be considered a responsible source for subsequent contracting with the College. Other parties who violate this Policy on the College campus, or on any property rented or leased by the College, but who do not have a contractual relationship with the College (including volunteers) may be barred from the College campus.

## **8. INFORMATION AND COUNSELING**

Information about or assistance with this Policy may be obtained from a variety of College resources, including the College's Resource Coordinators, the Office of Human Resources and the Office of Equal Opportunity Programs and Minority Affairs. For counseling services, employees may also contact the Human Resources Office regarding the employee assistance program (EAP) and students may contact the Counseling and Substance Abuse Services for support regarding discrimination, harassment, abuse or retaliation. Discussions with representatives of EAP and/or the Counseling and Substance Abuse Services offices do not constitute a complaint to the College.

## **9. COLLEGE INITIATED ACTION**

In circumstances when a report of inappropriate behavior is made, but the COMPLAINANT does not wish to pursue the matter, the College reserves the right to investigate the report and take appropriate action under this Policy. The College is likely to make a decision to pursue such a matter if it determines, in the exercise of its discretion, that: (a) the allegations, if true, give reason to believe that the COMPLAINANT or other members of the College community may be at continued risk of victimization and/or that the College may be put at risk of legal liability; and (b) the COMPLAINANT is credible.

The College also reserves the right to receive and investigate, at the College's discretion, complaints or reports by persons external to the College community about conduct of a member of the College community alleged to be in contravention of this Policy.

## **10. STANDARDS**

There may be a violation of this Policy regardless of whether the underlying conduct is legally actionable. A violation of this Policy will be deemed to exist if the material facts needed to establish a violation are



deemed more probably true than not true. (See Appendix D the *Operating Procedures for Processing Initial Complaints Against Faculty and Administrative Staff*).

## **11. WRITTEN REPORT/COMPLAINT**

Once a COMPLAINT of discrimination or harassment has been made under this Policy, the COMPLAINANT may be asked to submit a written statement to the individual designated to investigate the COMPLAINT. The COMPLAINANT is expected to cooperate with the College's investigation including, but not limited to, preparation and submission of a comprehensive written complaint. The failure to submit a written complaint, however, will not be deemed as sufficient cause not to investigate a matter.

## **12. CONFIDENTIALITY**

The College recognizes that confidentiality is important. Information gathered during an investigation shall be maintained as confidential to the extent reasonably possible and permitted under law. Examples of situations when confidentiality will not be maintained include circumstances when the College is required by law to disclose information (i.e., in response to legal process) or when disclosure is required by the College's outweighing interest to protect the rights and safety of others.

## **13. NO RETALIATION**

The College prohibits adverse treatment of employees or students for exercising their rights under this Policy. Any good faith report of discrimination and/or harassment, experienced or observed, should be made without fear of retaliation by the College. **RETALIATION AGAINST ANY EMPLOYEE OR STUDENT FOR FILING A COMPLAINT OR PARTICIPATING IN AN INVESTIGATION IN GOOD FAITH IS STRICTLY PROHIBITED BY LAW AND THIS POLICY. VIOLATORS WILL BE SUBJECT TO THE IMMEDIATE CONSIDERATION OF DISCIPLINARY AND/OR REMEDIAL ACTION THAT COULD INCLUDE SEPARATION FROM THE COLLEGE.**

Intentionally making a false report or providing false or materially misleading information during an investigation also constitute grounds for discipline and/or remedial action.

## **14. INVESTIGATIVE PROCEDURES, DETERMINATIONS AND DISCIPLINARY/REMEDIAL ACTIONS**

Alleged violations of this Policy shall be investigated, and the merits determined, in accordance with the *Operating Procedures for Processing Initial Complaints Against Faculty and Administrative Staff*. (See Appendix D)

## **15. COMPLIANCE COORDINATORS**

The Director of Human Relations and Minority Affairs has been designated by the President of the College to be the compliance coordinator for those statutes listed below:

- Title IX, Education Act Amendments of 1972
- ADA/Rehabilitation Act of 1973
- Age Discrimination Act of 1975

## **16. AFTER THE DECISION IS MADE**

In the event the College determines that a corrective action is necessary, the accused individual may APPEAL the finding pursuant to the *Operating Procedures for Processing Initial Complaints Against Faculty and Administrative Staff*. (See Appendix D)

## **17. RESPONSIBILITY FOR POLICY MAINTENANCE**

The Director of Human Relations and Minority Affairs, upon consultation with the Director of Human Resources, shall be responsible for the periodic review and maintenance of this Policy. Such reviews shall take place no less frequently than once during each three year period and shall be provided to the PRESIDENT'S EXECUTIVE TEAM within seven calendar days of completion.

## **18. RECORDS**

### **18.1 Federal Requirements**

In compliance with federal law and the College's Program Participation Agreement with the U.S. Department of Education, the College's Office of Institutional Research completes and submits surveys (Fall Enrollment Survey and Fall Staff) conducted as part of the Integrated Postsecondary Education Data System (IPEDS) reflecting racial/ethnic data on students and employees.

### **18.2 State Requirements and Affirmative Action Plans**

It shall be the responsibility of the Office of Equal Opportunity Programs and Minority Affairs to prepare and submit such affirmative action plans and reports as may be required under the laws of South Carolina.<sup>13</sup> Prior to the submission of any such Plan, however, it shall be submitted for approval to the Director of Human Resources and the PRESIDENT'S EXECUTIVE TEAM.

## **19. AMENDMENTS**

This Policy and Procedure may be amended at any time in accordance with the Colleges *Campus Wide Policy Making Procedures*.

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<sup>13</sup> South Carolina law provides as follows:

§ 1-13-110. Affirmative action plans by State agencies; approval by Commission; action by General Assembly.

Each State agency shall develop an Affirmative Action Plan to assure equitable employment for members of minorities (race and sex) and shall present such Plans to the Human Affairs Commission. On or before February 1 of each year, the Human Affairs Commission shall submit a report to the General Assembly concerning the status of the Affirmative Action Plans of all State agencies. If any Affirmative Action Plans have been disapproved, the report shall contain the reasons for such disapproval. If the General Assembly takes no action within sixty (60) days on those Plans which have been disapproved, the action of the Human Affairs Commission shall be final.

## GLOSSARY

**Definitions:** The definitions contained in this Policy will be interpreted and applied by the College in a manner that is consistent with applicable law, professional usage, and conventional understanding within the community. In the event of any alleged conflict in meaning, statutory and legal interpretations shall prevail and be deemed controlling.

**“APPEAL”** – shall have the meaning ascribed to that term in Section 8.0 of the *Operating Procedures for Processing Initial Complaints Against Faculty and Administrative Staff*. (See Appendix D)

**“CAMPUS COMMUNITY” or “COLLEGE COMMUNITY”** – shall mean the students, faculty, and staff of the College, whether part-time, full time or temporary, the College Board of Trustees, visiting faculty, contractors and consultants performing work or performing services on College owned or leased property and all other invitees of the College.

**“CHILD ABUSE OR NEGLECT” or “HARM”** – means, with respect to a person under 18 years of age, conduct occurring when the parent, guardian, or other person responsible for the child's welfare:

**A.** Inflicts or allows to be inflicted upon the child physical or mental injury or engages in acts or omissions which present a substantial risk of physical or mental injury to the child, including injuries sustained as a result of excessive corporal punishment, but excluding corporal punishment or physical discipline which:

- (i) is administered by a parent or person in loco parentis;
- (ii) is perpetrated for the sole purpose of restraining or correcting the child;
- (iii) is reasonable in manner and moderate in degree;
- (iv) has not brought about permanent or lasting damage to the child; and
- (v) is not reckless or grossly negligent behavior by the parents.

**B.** Commits or allows to be committed against the child a sexual offense as defined by the laws of this State [South Carolina] or engages in acts or omissions that present a substantial risk that a sexual offense as defined in the laws of this State would be committed against the child;

**C.** Fails to supply the child with adequate food, clothing, shelter, or education as required under Article 1 of Chapter 65 of Title 59 [South Carolina Code Ann.], supervision appropriate to the child's age and development, or health care though financially able to do so or offered financial or other reasonable means to do so, and the failure to do so has caused or presents a substantial risk of causing physical or mental injury. However, a child's absences from school may not be considered abuse or neglect unless the school has made efforts to bring about the child's attendance, and those efforts were unsuccessful because of the parents' refusal to cooperate. For the purpose of this chapter "adequate health care" includes any medical or nonmedical remedial health care permitted or authorized under state law;

**D.** Abandons the child;

**E.** Encourages, condones, or approves the commission of delinquent acts by the child and the commission of the acts are shown to be the result of the encouragement, condonation, or approval; or

**F.** Has committed abuse or neglect as described in subsections (a) through (e) such that a child who subsequently becomes part of the person's household is at substantial risk of one of those forms of abuse or neglect.

**“COLLEGE”** – shall mean the College of Charleston.

**“COMPLAINANT”** – shall mean a person who makes a complaint, whether written or verbal, of facts that, if true, would constitute a violation of this Policy.

**“COMPLAINT”** – shall mean a verbal or written report of a potential violation of this Policy that is received by a “Designated Official” within the meaning of Section 2.0 of the *Operating Procedures for Processing Initial Complaints Against Faculty and Administrators and Staff*. (See Appendix D)

**“DISABILITY”** - shall mean, with respect to an individual, a physical or mental impairment that substantially limits one or more of the major life activities of such individual; a record of such an impairment; or being regarded as having such an impairment.

**“GENETIC INFORMATION”**

(a) In general. The term "genetic information" means, with respect to any individual, information about-

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- (i) such individual's genetic tests,
- (ii) the genetic tests of family members of such individual, and
- (iii) the manifestation of a disease or disorder in family members of such individual.

(b) Inclusion of genetic services and participation in genetic research. Such term includes, with respect to any individual, any request for, or receipt of, genetic services, or participation in clinical research which includes genetic services, by such individual or any family member of such individual.

(c) Exclusions. The term "genetic information" shall not include information about the sex or age of any individual.

**“GENETIC MONITORING”**

The term "Genetic Monitoring" means the periodic examination of employees to evaluate acquired modifications to their genetic material, such as chromosomal damage or evidence of increased occurrence of mutations, that may have developed in the course of employment due to exposure to toxic substances in the workplace, in order to identify, evaluate, and respond to the effects of or control adverse environmental exposures in the workplace.

**“GENETIC SERVICES”**

The term "Genetic Services" means--

- (a) a genetic test;
- (b) genetic counseling (including obtaining, interpreting, or assessing genetic information); or
- (c) genetic education.

**“GENETIC TEST”**

(a) The term "Genetic Test" means an analysis of human DNA, RNA, chromosomes, proteins, or metabolites, that detects genotypes, mutations, or chromosomal changes.

(b) Exceptions. The term "Genetic Test" does not mean an analysis of proteins or metabolites that does not detect genotypes, mutations, or chromosomal changes.

**“OFFICE OF LEGAL AFFAIRS” or “OLA”** – means the Office of Legal Affairs of the College of Charleston.

**“PRESIDENT’S EXECUTIVE TEAM”** – shall mean such Executive Vice Presidents, Senior Vice Presidents, Executive and Senior staff as the President may, from time to time, designate.

**“QUALIFIED INDIVIDUAL WITH A DISABILITY”** -- Qualified individual with a disability means:

(a) With respect to any program or activity (except employment), an individual with a disability who, with or without reasonable modifications or aids, meets the essential eligibility requirements for participation in, or receipt of benefits from, that program or activity.

(b) With respect to employment, a Qualified individual with a disability means an individual with a disability who satisfies the requisite skill, experience, education and other job-related

requirements of the employment position such individual holds or desires, and who, with or without reasonable accommodation, can perform the essential functions of such position.<sup>14</sup>

**“RESPONDENT”** – means the person(s) named in a complaint who is accused of a violation of this Policy or who would be found to have violated the Policy if the material facts alleged in a complaint are determined to be more likely true than not true.

**"UNIFORMED SERVICES"** means the Armed Forces, the Army National Guard and the Air National Guard when engaged in active duty for training, inactive duty training, or full-time National Guard duty, the commissioned corps of the Public Health Service, and any other category of persons designated by the President in time of war or national emergency.

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<sup>14</sup> Exceptions will be recognized to this definition that are consistent with Federal regulations (see e.g. 29 C.F.R. § 1630.3).

## **Appendix D. Operating Procedures for Processing Initial Complaints Against Faculty and Administrators and Staff**

### **OPERATING PROCEDURES FOR PROCESSING INITIAL COMPLAINTS AGAINST FACULTY AND ADMINISTRATORS AND STAFF**

#### **INTRODUCTION**

Without changing the substantive provisions of any College Policy or amending any provision of the Faculty/Administration Manual, this document will describe how certain complaints alleging inappropriate conduct or omissions by faculty, administrators and staff will be initially investigated.<sup>15</sup>

These Operating Procedures (“Procedures”) specify the acceptable method for conducting initial investigations of the types of matters listed in Section 1.0 below. The Procedures will also provide those managers making initial decisions on complaints (the “Decisional Authorities”) an improved opportunity to receive and review the facts and to discuss policy and legal implications at meaningful times prior to decision making.

With respect to the parties involved in the matter, it is intended that the Procedures will provide more information on “process” and the rights of both the Complainants (those alleging a policy violation) and Respondents (those alleged to have violated College policy). Similarly, these Procedures will afford supervisors and managers and the heads of affected operating units, such as department chairs, appropriate notice and an opportunity to provide input into the investigatory process.

Finally, it is expected that this standardization of the investigatory process will also promote consistency and uniformity in the type and content of communications sent to all concerned parties.

**NOTHING CONTAINED IN THESE OPERATING PROCEDURES IS INTENDED TO MODIFY, AFFECT, OR REPEAL ANY COLLEGE POLICY, ANY PROVISION OF THE FACULTY/ADMINISTRATION MANUAL (“FAM”), OR ANY RIGHT TO A GRIEVANCE PROCEDURE AS PROVIDED FOR UNDER THE FAM OR THE LAWS OF SOUTH CAROLINA AND RELEVANT REGULATIONS PROMULGATED PURSUANT THERETO.**

#### **1. APPLICABILITY**

**1.1 Covered Policies** -- This Procedure will be used to investigate initial complaints<sup>16</sup> concerning a matter, or an alleged violation of a policy, dealing with one or more of the following (each a “Covered College Policy”):

- (a) the College Policies entitled, *Prohibition of Discrimination and Harassment Including Sexual Harassment and Abuse*, and the *Consensual Relations Policy*, described in the FAM when an alleged violation of that latter Policy is included within a claim of discrimination (collectively “Discrimination”);

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<sup>15</sup> For ease of convenience, in this document administrators and staff will be collectively referred to as “administrative staff.”

<sup>16</sup> For purposes of these Procedures a “complaint” or a “grievance” may be used interchangeably to indicate one or more allegations made by a complaining party that would trigger an initial factual investigation by the College to determine facts relevant to a determination of whether a member of the College community has violated a covered Policy. Students, faculty, administrators, staff, trustees and College volunteers are considered to be members of the “College community”. Claims of improper conduct by students, however, will be investigated and resolved in accord with the *Student Code of Conduct*.

(b) student grievances against faculty members or others (not covered under (a)), as described in the FAM, except that student grade appeals are not subject to investigation under these Procedures;

(c) *Code of Professional Conduct and Statement of Professional Ethics*, as described in the FAM (not covered under (a)); or

(d) legal regulatory compliance issues.

**1.2 Other Matters** -- Alleged violations of the *College Code of Conduct and Disciplinary Actions* not specifically covered under a policy listed in Section 1.1 may be investigated in a reasonable manner deemed most suitable under the circumstances by the immediate supervisor of the Respondent, if a disinterested party, and the Director of Human Resources. If the immediate supervisor of the Respondent is not a disinterested party the Director of Human Resources shall decide how the matter is to be investigated. Complaints may be initially conveyed to or filed with the immediate supervisor or Director of Human Resources, but if the immediate supervisor of the Complainant is not a disinterested party, complaints shall be filed with or presented to the Director of Human Resources. In all circumstances, however, the Complainant and the Respondent shall be given a meaningful opportunity, at a meaningful time, to present their respective positions.

**1.3 Duty to Investigate** – In the event that a Complainant discloses information that, if true, would constitute a violation of a Covered Policy, but then subsequently refuses to reduce his/her complaint to writing or to cooperate in an investigation, the Designated Official (see Section 2.0) or the investigator (see Section 3.0) shall consult with the General Counsel. The Senior Vice President, after consultation with the appropriate Executive Vice President and/or the President, will determine the legal responsibilities of the College to proceed with an investigation under the attending circumstances.

## **2. ACCEPTANCE OF COMPLAINTS**

**2.1 Designated Officials.** Except as provided below in Sections 2.2 and 2.3, alleged violations of a Covered Policy may be made to one or more Designated Officials (as appropriate) occupying the employment positions noted next to each matter listed immediately below in subsections (a) through (d). Once received by a Designated Official, the matter will be referred to an investigator as provided for in Section 3.0.

(a) Discrimination Complaints Including Sexual Harassment and Harassment of Protected Groups – Complaints may be conveyed to or filed with:

(1) Director of Human Relations (“HRel”): for Complainants who are employees, students, College volunteers, College invitees or employees of College contractors alleging Discrimination on College owned or leased property (“College Property”).

(2) An Associate Provost: for Complainants who are faculty and administrative staff employed by Academic Affairs and who elect not to file with the General Counsel, or Office of Equal Opportunity Programs and Minority Affairs.

(3) Dean of Students: for Complainants who are students only.

(4) General Counsel: for all of the above.

(b) Student Grievances for Other Than Discrimination Covered under Subsection (a)

(1) With respect to a grievance against a faculty member made by a student for other than Discrimination, the Complainant/student may convey or file a grievance with

the Chair or the Program Director of the unit that is the employing office of the Respondent faculty member.

(2) Grievances against non-faculty members and other students should be brought to the attention of the Dean of Students or, if Discrimination by an employee is alleged by the student, to any one of those persons listed in (a) (1) through (4) above.

(3) In all cases concerning the alleged violation of a Covered Policy, however, the Dean of Students must transmit the complaint, or direct the student, to the appropriate Designated Official. Such a referral does not preclude the Dean of Students from initiating proceedings under the Student Code of Conduct in cases when the alleged conduct would violate both a Covered Policy and the Student Code of Conduct. In such a situation, and in the absence of exigent circumstances, the Dean of Students will await the outcome of the factual investigation before proceeding with a disciplinary hearing.

(c) Code of Professional Conduct and Statement of Professional Ethics – Except for Discrimination, complaints may be conveyed to or filed with the appropriate Executive Vice President having responsibility for the area in which the Respondent is employed. A complaint against an Executive Vice President or the General Counsel may be conveyed to or filed with the President.

(d) Regulatory Compliance Issues – Complaints or disclosures of non-compliance with laws, rules, or regulations by College personnel, students, volunteers, or College contractors, or subcontractors or sub recipients of sponsored research, may be conveyed to or filed with the General Counsel or the appropriate Executive Vice President having responsibility for the area in which the Respondent is employed. Violations of state or local criminal law may also be reported to the College's Chief of Police. A complaint against an Executive Vice President or the General Counsel may be conveyed to or filed with the President.

**2.2 The President** -- Alleged violations of a Covered Policy by the President may be made to the Chair of the Board of Trustees, the Secretary of the Board, or to the General Counsel.

**2.3 Board of Trustees** -- Alleged violations of a Covered Policy by a Member of the Board of Trustees shall be made to the Chair of the Board of Trustees or to any other disinterested member of the Board.

**2.4 Notice to the President** -- In all circumstances the President shall be provided prompt notice of all allegations that a Senior or Executive Vice President has violated a Covered Policy.

### **3. REFERRAL TO INVESTIGATOR**

**3.1 Referrals or Investigations by the Designated Officials** -- Except as provided in Section 3.2, upon receipt of a complaint, a Designated Official shall refer the matter for investigation, or shall conduct the investigation, in accordance with the following:

(a) Discrimination --

(i) Alleged violations of the *Policy on Prohibition of Discrimination and Harassment, Including Sexual Harassment and Abuse* shall be referred to the Office of Equal Opportunity Programs and Minority Affairs for investigation, except as may otherwise be determined, in exceptional cases, by the General Counsel, the President, or the Board of Trustees.<sup>17</sup>

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<sup>17</sup> For the purposes of this subsection only, an exceptional case will be deemed to exist if, for example, the respondent is a dean or a member of the President's Executive Team.



(ii) When complaints of Discrimination involve both students and non-students, the Dean of Students and the Director of the Office of Equal Opportunity Programs and Minority Affairs shall consult and coordinate their respective activities. The Office of the Provost shall also be consulted if the complaint involves, or is likely to involve, issues of academic freedom, academic integrity, or other issues that may involve an academic matter. The Center for Disability Services will be consulted if the complaint involves, or is likely to involve, actual or apparent disabilities, within the meaning of the *Americans with Disabilities Act* or accommodations under that Act.

(b) Student Grievances for Other than Discrimination –

Grievances lodged against a faculty member for other than Discrimination shall be referred to and investigated by the Chair of the Respondent faculty member's employing department or unit in accordance with the provisions of the FAM. Student grievances alleging a violation of policy by another student shall be investigated in accord with the Student Code of Conduct; complaints against administrative staff shall be investigated by those persons described in (a), (c), (d), (e) or (f) of this Section 3.0.

(c) Code of Professional Conduct and Statement of Professional Ethics – In the case of a complaint against a faculty member for unprofessional conduct (other than Discrimination), the Dean of the appropriate School, after consultation with the Office of the Provost, shall appoint a disinterested investigative review panel consisting of no more than three faculty members or academic administrators from the School to investigate the matter.<sup>18</sup> The results of that investigation shall be reviewed and commented on by the Chair of the Respondent's department or unit. The Chair's recommendation and comments shall be conveyed to the Dean for a decision or a recommendation to the Provost, as may be appropriate (see Section 7.0). The decision or recommendation of the Dean shall be provided to the Chair, the Complainant, and to the Respondent faculty member.

(d) Compliance Issues -- Compliance issues shall be investigated in a manner directed by the General Counsel after consultation with the President and/or the appropriate Executive Vice President, provided that if the Executive Vice President is an involved party in the challenged activity, the Senior Vice President shall consult only with the President. Complaints against the General Counsel shall be handled in a manner deemed most appropriate under the circumstances by the President.

**3.2 All Complaints Dealing with the President or a Trustee** -- Complaints against the President for a violation of a covered Policy shall be investigated and resolved in a manner deemed most appropriate under the circumstances by the Board of Trustees. Complaints against a Trustee for a violation of a covered Policy shall be investigated and resolved in a manner deemed most appropriate under the circumstances by the disinterested Members of the Board.

**3.3 Uncertainty Regarding Referrals for Investigation** – In the event that a Designated Official is uncertain as to the proper person to whom a Complaint should be referred, the matter shall be referred to the General Counsel who shall consult with the appropriate Executive Vice President and/or the President prior to making a final decision on the appropriate referral.

#### **4. INFORMAL RESOLUTION**

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<sup>18</sup> In exceptional circumstances the Provost may determine, in the exercise of her/his discretion, that fundamental fairness would be better served by appointing a panel outside of the School to conduct the investigation.

**4.1 Mediation** – Except as provided for in Section 4.4, mediation is the preferred way to resolve most disputes between members of the College community. In order for mediation to take place on any complaint, however, it must be mutually acceptable to both the Respondent and the Complainant. During the mediation, the investigator meets individually and/or with both parties, as appropriate. Either the Complainant or the Respondent may refuse mediation or, once commenced, end mediation at any time. No adverse inference is to be drawn from any such decision to accept or reject mediation. If a mediated compromise is reached between the parties, it must be approved by the investigator and the Executive Vice President in the supervisory chain. The Executive Vice President may consult, as appropriate, with affected supervisor(s) and others and shall seek legal advice from the General Counsel to resolve or discuss legal issues.

**4.2 Interim Action** – Upon receipt of a complaint, the investigator is to perform a preliminary assessment of the need for immediate interim action (e.g. removal, reassignment, administrative leave, or suspension). If the investigator believes that interim action is needed, the investigator is to provide notification to the Provost or other appropriate Executive Vice President and those in the supervisory chain, as may be appropriate under the circumstances. The recommended interim action, if approved by the relevant Executive Vice President (after consultation with the General Counsel), is to be taken by the Respondent's supervisor or the first disinterested manager higher up in the supervisory chain.

**4.3 Next Step** -- If mediation is not feasible or appropriate under the circumstances, or if not successful within a reasonable period of time, the investigator is to commence a formal investigation.

**4.4 Inappropriate Circumstances for Mediation** -- The College will not agree to any mediated solution to a complaint, despite the wishes of the parties, when it has reason to believe that: (a) a sexual assault or any other form of violence has taken place; (b) the Complainant and the Respondent are so diametrically adverse in positions or have such conflicting views of an appropriate solution that resolution by mediation seems unlikely; (c) there is an unreasonable risk of violence or intimidation by one party against the other; (d) the Respondent has been charged with a crime arising out of the event giving rise to the Complaint; or (e) for other good cause in the interest of the College, or the parties, as determined in the discretion of the investigator.

## **5. FORMAL INVESTIGATION**

**5.1 Commencement** -- The investigator shall first identify all provisions of applicable policies that may have been violated if the allegations made by the Complainant prove more likely true than not true. Only those allegations that would, if true, constitute a violation of a Covered Policy should be investigated; and only evidence that tends to prove or disprove such allegations shall be considered relevant to the investigation. If the investigator determines that even if all allegations prove true there would be no violation of a Covered Policy, the matter shall not be investigated.

**5.2 Notice** -- Except as provided in this Section 5.2, the investigator is to notify the Respondent that allegations have been made against him/her and the nature of the allegations. The appropriate policy shall be cited and the Respondent shall be informed that retaliation in any form against the Complainant or a witness is strictly prohibited. The Respondent shall also be notified that s/he will have an opportunity to address the allegations and to submit evidence on his/her own behalf. In exceptional cases, notification of the Respondent may be delayed if the investigator determines that such notification may put the Complainant or a witness at risk or impede the investigation.

**5.3 Evidence** --

(a) Fact Gathering -- The investigator is to conduct fact finding through interviews of the Complainant, the Respondent and other witnesses, the examination of written

statements from the parties, the review of all relevant documents, and the consideration of any other evidence that would tend to prove or disprove the factual allegations. Executive Vice Presidents are to take reasonable measures to assure that the investigator has access to witnesses, documents, and such other evidence as may be reasonably necessary under the circumstances to discover and consider relevant facts. The investigator shall make notes of all interviews conducted as part of the investigation.

(b) Counsel -- Witnesses, including the Complainant and the Respondent, may have legal counsel present at interviews, but counsel may not participate in the interview (that is, answer questions for, or ask questions on behalf of, their clients) and may be asked to leave the interview site if disruptive or causing an unreasonable delay in the conduct of the interview. Prior to any such interview with counsel in attendance, the investigator shall notify the Senior Vice President of Legal Affairs and afford the Senior Vice President the opportunity to attend the interview.

(c) No Inference -- A negative inference may not be drawn by the Respondent's decision not to provide a statement or give an interview. In such event, the matter will be decided without the benefit of the Respondent's participation.

(d) Interference -- A member of the College community who interferes with an investigation conducted under these Procedures shall be subject to disciplinary action up to and including termination or expulsion, depending on the frequency or seriousness of the offense.

**5.4 Opportunity to Respond** -- The Respondent must be given a meaningful opportunity, at a meaningful time, to respond to the allegations and present relevant evidence on his/her behalf during the initial investigation.

**5.5 Time Estimates** -- The investigator shall conduct an investigation in a manner and within a timeframe most appropriate to the circumstances, taking into account pending workload requirements, other assigned cases, and the complexity of the individual complaint being investigated. Upon inquiry by either the Complainant or the Respondent, the investigator shall give a good faith estimate of when the Report of Investigation will be completed.

**5.6 Facilitators** -- If the investigator, in the exercise of her/his sole discretion, determines that the appointment of a "facilitator" would be of assistance to the investigator in the conduct of the matter under investigation, the investigator may request the appropriate Executive Vice President to appoint a disinterested employee to assist the investigator. Such assistance may include, but not be limited to, gathering relevant documents, arranging for the interview of potential witnesses, and keeping the Complainant and the Respondent informed of the progress of the investigation and its expected time of completion. All facilitators shall be subject to the direction of the investigator and shall sign an appropriate confidentiality agreement prepared by OLA prior to performing any services under this Section 5.6.

**5.7 Pending Criminal Matter** -- Generally, a College investigation will not be postponed if the Complainant or Respondent has been charged with a crime arising out of an event related to the Complaint. In each such circumstance, the OLA shall be notified of the criminal matter and will decide, on a case-by-case basis, whether exceptional circumstances exist to warrant delaying the investigation of the matter.

**5.8 Personal Advisers**

**When investigations are conducted under the authority of either the *Prohibition of Discrimination and Harassment, Including Sexual Harassment and Abuse Policy* or the *Consensual Relations Policy* both the Complainant and the Respondent shall be allowed to have one personal adviser to accompany them throughout all phases of the investigatory**

process following the making of a complaint. This courtesy, however, shall be subject to all of the terms and conditions stated in Section 6.5 of the *Prohibition of Discrimination and Harassment, Including Sexual Harassment and Abuse Policy*.

## **6. REPORT OF INVESTIGATION**

**6.1 Issuance of a Report of Investigation (the “Report”) by the Investigator** -- The content of the Report shall be principally confined to the allegations, the applicable Covered Policy, and the findings and conclusions of fact. No legal conclusions are to be presented in the Report as to the applicability of any law, or whether any law was violated; except that, the Report must state that retaliation is a violation of both law and College policy. The Report shall contain at least the following five sections:

- (a) the allegations;
- (b) the applicable policy or policies involved;
- (c) the method of investigation, including a list of witness interviewed, documents reviewed and other evidence considered;
- (d) findings of fact; and
- (e) factual conclusions.

**6.2 Office of Legal Affairs** -- The Report is to be forwarded to the Decisional Authority through the Office of Legal Affairs (“OLA”). OLA may not amend the Report in any way, but may prepare a legal memorandum for use by the Decisional Authority to accompany the Report. The memorandum will be protected by privilege and will contain a legal review and an explanation of the range of options legally available to the Decisional Authority under the circumstances. The memorandum may also indicate the rights, if any, that the Respondent may have to address any proposed conclusion and discipline prior to the issuance of a final decision.

**6.3 The Record** – The Report and all its exhibits and referenced materials, as well as, newly discovered evidence, as described in Section 8.3, shall be the official record of the investigation. The investigator, however, may summarize voluminous evidence in the Report, with appropriate references, provided that the Decisional Authority is advised of his/her authority and opportunity to review the entire record.

**6.4 Maintenance of the Record** – After the investigation has been completed and the matter has been closed, the official record of the investigation, the Report of Investigation and the disposition of the Decisional Authority shall be maintained in the Office of the investigator. These materials shall be available to: (a) the Complainant and the Respondent, with such redactions as may be required under law; (b) the investigator, the Decisional Authority, and the OLA; and (c) such third parties who may have a legal right to access such materials, in whole or in part, as determined by the General Counsel.

## **7. DECISIONAL AUTHORITY**

**7.1 Responsibilities** -- The initial Decisional Authority is the manager who receives the Report of Investigation and who initially opines on whether the Respondent has violated the relevant Covered Policy and, if so, the nature and extent of the discipline and/or remedial action to be imposed or recommended to a higher management authority (the “Initial Decisional Authority”). The decision must contain a determination as to the material facts established by the record (deemed more probably true than not true), whether the established facts constitute a violation of the Covered Policy and, if so, what discipline and/or remedial action is to be imposed or recommended. In lieu of a decision, the matter may also be remanded by the Initial Decisional Authority to the investigator for more investigation. All decisions regarding a policy violation must be based solely on the Report of Investigation.

**7.2 Decisional Authorities** -- The Initial Decisional Authorities for the matters listed below are as follows:

(a) Discrimination or Code of Professional Conduct and Statement of Professional Ethics:

(i) If a Faculty member is the Respondent -- The Initial Decisional Authority is the relevant Chair or Dean.

(ii) If the Respondent is Administrative Staff -- The Initial Decisional Authority is the first supervisor in the supervisory line of the Respondent who is at the level of an Associate Vice President or higher.

(b) Student Grievances --

(i) Against Faculty Members for other than Discrimination -- These grievances shall be initially decided by the Chair of the relevant department and appeals from that decision are to be resolved by the appropriate Dean. Subsequent proceedings, if any, are to be conducted in accordance with the FAM.

(ii) Against Administrative Staff -- Student grievances against administrative staff based on alleged Discrimination or violation of the Code of Professional Conduct and Statement of Professional Ethics shall be treated under the procedures provided for under subsection (a) of this Section 7.2.

(iii) Against other Students -- These matters shall be resolved by the Dean of Students under the Student Code of Conduct or as provided for under a Covered Policy, whichever is more appropriate under the circumstances.

**7.3 Automatic Disciplinary Reviews** -- Disciplinary action against Faculty or Administrative Staff that is more severe than an oral or written reprimand must be approved by the appropriate Executive Vice President. In such a case, the lower level supervisors shall forward the Report, the OLA legal memorandum and his/her recommendations to the appropriate Executive Vice President. Notification of the recommendation submitted to the Executive Vice President shall be provided to the Complainant and the Respondent to afford each of them an opportunity to comment on the recommendations directly to the Executive Vice President.

**7.4 Compliance Issues** -- Legal opinions regarding whether the College has acted in a manner inconsistent with laws, rules, or regulations shall be made by the General Counsel and shall be provided to such person(s) as may be appropriate under the circumstances.

## **8. APPEALS**

**8.1 Generally** -- An appeal is not a grievance proceeding. Rather, it is a request that the appropriate higher level manager in the supervisory chain overturn or modify an action taken by an initial Decisional Authority or decline to follow the recommendation of the initial Decisional Authority.

**8.2 Non-Appealable Matters** -- Verbal or written reprimands and the findings on which they are based are not appealable. In the case of a written reprimand, however, the Respondent may be permitted to include in her/his official personnel file a response to the written reprimand, provided that such response, in the opinion of the appropriate Executive Vice President upon consultation with the General Counsel, is relevant, does not defame any person or the College, respects the privacy rights of students, and avoids expletives and pejorative language.

**8.3 Special Considerations --** Decisions on appeal shall be based solely on the Report of Investigation, except that, an appeal may also raise the following issues:

- (a) newly discovered evidence that was previously unknown and not reasonably discoverable at the time of the initial investigation and that could affect the outcome; or
- (b) an irregularity in the process that affected the finding of a material fact or that could have otherwise affected the outcome.

**8.4 Standard of Review --** Upon an appeal, the findings of the Decisional Authority will be overturned only if the Appeal Authority determines that there was no circumstance under which a reasonable person could reach the same factual conclusion based on the Record, as it may be modified under section 8.3. The sanctions imposed in a case will not be modified unless the Appeal Authority determines that they are materially disproportionate to the severity of the violation or not supported by the factual conclusions of the Initial Decisional Authority.

**8.5 Termination of Tenured Faculty –** Nothing contained in these Procedures is intended to indicate that the standard for the termination of a tenured faculty member is other than “clear and convincing evidence in the record considered as a whole,” as provided for in the FAM.

## **9. ASSISTANCE**

Upon request, investigators and Decisional Authorities shall be provided legal assistance by the Office of Legal Affairs.

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## **Appendix E. Privacy Policy and Procedure on the Security of Protected Information and Related Appendixes**

### **BACKGROUND**

This Policy and Procedure governs the security and confidentiality of personal information entrusted to the care of College of Charleston (“College”) to carry out its mission and to certain other sensitive information that is generated and owned by the College. This Policy and Procedure also establishes the principles and processes by which that information will be maintained and managed.

### **PURPOSE**

The *South Carolina Family Privacy Protection Act* provides, in relevant part:

§ 30-2-20. Privacy policies and procedures required of all state entities.

All state agencies, boards, commissions, institutions, departments, and other state entities, by whatever name known, must develop privacy policies and procedures to ensure that the collection of personal information pertaining to citizens of the State is limited to such personal information required by any such agency, board, commission, institution, department, or other state entity and necessary to fulfill a legitimate public purpose.

Implementation and adherence to this Policy and Procedure are necessary to comply with the cited statute and to provide for the protection of sensitive information that is maintained or owned by the College.

The specific purposes of this Policy and Procedure are:

- To establish a College-wide approach to information security.
- To prescribe mechanisms that help identify and prevent the compromise of information security and the misuse of data, applications, networks and computer systems.
- To define mechanisms to protect the reputation of the College and allow the College to satisfy its legal and ethical responsibilities to others.
- To prescribe an effective mechanism for responding to external complaints and queries about real or perceived non-compliance with this Policy and Procedure.
- To further reduce the risk of exposure and identity theft when a Social Security Number or other personal identifying information is used by the College as a primary identifier and to provide for the consistent, proper and secure management of such information.

### **SCOPE**

This Policy and Procedure is applicable to all members of the College Community including our faculty, staff, students, visitors and contractors who have access to College records regardless of the medium in which those records are stored or where they are located.

### **SOUTH CAROLINA FAMILY PRIVACY PROTECTION ACT<sup>19</sup>**

State law requires the College to develop privacy policies and procedures to ensure that the collection of personal information pertaining to citizens of the State is limited to such personal information as may be required by the College to fulfill its public purpose.<sup>20</sup>

The College is also required, as a state entity, to clearly display its Privacy Policy on its web page, along with the name and telephone number of the College's designee who is "responsible for administration of the policy."<sup>21</sup> This Policy and Procedure will be included, therefore, on the College's web site.

When personal information is authorized to be collected by a College Operating Unit, and when that information is subject to disclosure under the *Freedom of Information Act*<sup>22</sup>, the operating Unit must, at the time of collection, advise the citizen to whom the information pertains that the information is subject to public scrutiny or release under the *Freedom of Information Act*. Forms that may be used for such purpose are attached hereto and marked as Appendix A.

#### **1. DEFINITIONS<sup>23</sup>**

In this Policy and Procedure the following terms are given the meaning ascribed next to each:

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<sup>19</sup> S.C. Code. Ann. § 30-2-10 *et seq.*

<sup>20</sup> S.C. Code Ann. § 30-2-20 (Privacy policies and procedures required of all state entities)

<sup>21</sup> S.C. Code Ann. § 30-2-40 (Display of privacy policy on web site; access to personal information disclosure; criminal justice and judicial agency exception)

<sup>22</sup> For purposes of this Policy and Procedure, the term *Freedom of Information Act* means the South Carolina *Freedom of Information Act*, codified at S.C. Code Ann. § 30-4 10 *et seq.*

<sup>23</sup> The definitions derived from relevant provisions of laws, rules and regulations are cited after each.

**“College Operating Unit” of “Unit”** – means an academic or administrative office, department, or division.

**“Confidential Information”** -- means information, whether transmitted orally or in writing, which is obtained by reason of the public position or office held and is of such nature that it is not, at the time of transmission, a matter of public record or public knowledge.<sup>24</sup>

**“Education Records”** – means those records, files, documents, and other materials which (i) contain information directly related to a student; and (ii) are maintained by an educational agency or institution or by a person acting for such agency or institution.

The term "education records" does not include (i) records of instructional, supervisory, and administrative personnel and educational personnel ancillary thereto which are in the sole possession of the maker thereof and which are not accessible or revealed to any other person except a substitute; (ii) records maintained by the Department of Public Safety of the College that was created by that law enforcement Unit for the purpose of law enforcement; (iii) in the case of persons who are employed by the College but who are not in attendance as a student at the College, records made and maintained in the normal course of business which relate exclusively to such person in that person's capacity as an employee and are not available for use for any other purpose; or (iv) records on a student which are made or maintained by a physician, psychiatrist, psychologist, or other recognized professional or paraprofessional acting in his professional or paraprofessional capacity, or assisting in that capacity, and which are made, maintained, or used only in connection with the provision of treatment to the student, and are not available to anyone other than persons providing such treatment, except that such records can be personally reviewed by a physician or other appropriate professional of the student's choice.<sup>25</sup>

**“Employee Records”** -- shall include the following: (a) the employment application (including background checks); (b) all human resources actions reflecting the employee's work history with the College; (c) documentation directly related to the employee's work record; and (d) all performance evaluations.<sup>26</sup>

**“Identifying Information”** -- includes, but is not limited to: (a) Social Security Numbers; (b) driver's license numbers; (c) checking account numbers; (d) savings account numbers; (e) credit card numbers; (f) debit card numbers; (g) personal identification numbers; (h) electronic identification numbers; (i) digital signatures; (j) other numbers or information which may be used to access a person's financial resources; or (k) identifying documentation that defines a person other than the person presenting the document. This includes, but is not limited to, passports, driver's licenses, birth certificates, immigration documents, and state-issued identification cards.<sup>27</sup>

**“Medical Record” or “Health Information”** means any information, whether oral or recorded in any form or medium, that:

- (1) is created or received by a health care provider, health plan, public health authority, employer, life insurer, school or university, or health care clearinghouse; and
- (2) relates to the past, present, or future physical or mental health or condition of

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<sup>24</sup> S.C. Code Ann. §8-13-100(7)

<sup>25</sup> 20 U.S.C. §1232g(a)(4)

<sup>26</sup> S.C. Code Regs.19-720.02

<sup>27</sup> S.C. Code Ann. §16-13-510(C)



an individual; the provision of health care to an individual; or the past, present, or future payment for the provision of health care to an individual.<sup>28</sup>

**“Proprietary Data of the College”** -- means all operational, scientific, business, personnel, student, donor, and all other information and financial knowledge and data owned, licensed, possessed, or controlled by the College including, but not limited to, the College’s methods of conducting its business affairs, methods, processes, systems, improvements, development and other plans, fund raising methods, trade secrets, and all other private matters. Trade secrets include feasibility, planning, and marketing studies, and evaluations and other materials which contain references to potential customers, competitive information, or evaluation.

**“Personal Information”** -- means information that identifies or describes an individual including, but not limited to, an individual's photograph or digitized image, Social Security Number, date of birth, driver's identification number, name, home address, home telephone number, medical or disability information, education level, financial status, bank account numbers, account or identification number issued by or used, or both, by any federal or state governmental agency or private financial institution, employment history, height, weight, race, other physical details, signature, biometric identifiers, and any credit records or reports.<sup>29</sup>

**“Protected Information”** -- is a single term that includes all of the following: Confidential Information, Educational Records, Employee Records, Identifying Information, Medical Record or Health Information, Personal Information, and Proprietary Data of the College.

**“Public Record”** -- includes all books, papers, maps, photographs, cards, tapes, recordings, or other documentary materials regardless of physical form or characteristics prepared, owned, used, in the possession of, or retained by a public body. Records such as income tax returns, medical records, hospital medical staff reports, scholastic records, adoption records, records related to registration, and circulation of library materials which contain names or other personally identifying details regarding the users of public, private, school, college, technical college, university, and state institutional libraries and library systems, supported in whole or in part by public funds or expending public funds, or records which reveal the identity of the library patron checking out or requesting an item from the library or using other library services, except nonidentifying administrative and statistical reports of registration and circulation, and other records which by law are required to be closed to the public are not considered to be made open to the public under this Interim Policy and Procedure.

Public Records include the following: (1) the names, sex, race, title, and dates of employment of all employees and officers of the College; (2) administrative staff manuals and instructions to staff that affect a member of the public; (3) final opinions, including concurring and dissenting opinions, as well as orders, made in the adjudication of cases; (4) those statements of policy and interpretations of policy, statute, and the Constitution which have been adopted by the College; (5) written planning policies and goals and final planning decisions; (6) information in or taken from any account, voucher, or contract dealing with the receipt or expenditure of public or other funds by the College; (7) the minutes of all proceedings of the Trustees and all votes at such proceedings, with the exception of all such minutes and votes taken at meetings closed to the public pursuant to S.C. Ann Code Section 30-4-70; (8) reports which disclose the nature, substance, and location of any crime or alleged crime reported as having been committed. Where a report contains information exempt as otherwise provided by law, the College may delete that information from the report.<sup>30</sup>

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<sup>28</sup> Title 45 Code of Federal Regulations § 160.103

<sup>29</sup> S.C. Code Ann. §30-2-30(1)

<sup>30</sup> S.C. Code Ann. §§30-4-20(c) and 30-4-50

**“Security Breach”** – means the unauthorized disclosure of Protected Information. The Privacy Committee (see Section 15.0) will classify such Breaches by various levels of severity that will, in turn, specify the types of College responses appropriate to the level of severity the breach is assigned.

## **2. GENERAL RULES**

**2.1 Non-Disclosure.** Protected Information may NOT be released to or shared with:

(a) any member of the *public* unless there is applicable statutory exception or an exception under College policy that authorizes the release of such Information;

**OR**

(b) any member of the *College community* unless the recipient has a legitimate interest for the use of that Protected Information to perform a service or carryout a responsibility within that person’s scope of employment or engagement as a public official.

**2.2 Procedure.** Protected Information may only be released or shared in accordance with this Policy and Procedure.

**2.3 Legal Determinations.** Determinations of whether a particular element of Protected Information should be shared or released because it meets a statutory exception shall be made by the College Office of Legal Affairs, in consultation with the appropriate Executive Vice President and/or person responsible for the maintenance or distribution of the Protected Information, as circumstances may indicate.

**2.4 Coverage.** A person having access to Protected Information is expected to protect that Information from unauthorized disclosure. This includes, as appropriate:

- *Computer System and Applications Security:* Central processing units, peripherals, portable storage devices, operating system, applications software and data.
- *Physical Security:* The premises occupied by the College personnel or College contractors using computer equipment storing or having access to Protected Information.
- *Operational Security:* Environment control, power equipment, operational activities related to operations.
- *Procedural Security:* Established and documented security processes for information technology staff, vendors, management, and individual users of Protected Information.
- *Network Security:* Communications equipment, transmission paths, switches, terminals and adjacent areas.

## **3. SPECIAL RULES DEALING WITH SOCIAL SECURITY NUMBERS<sup>31</sup>**

**3.1** Except as provided in Section 3.2 below, no Unit of the College shall –

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<sup>31</sup> S.C. Code Ann. §30-2-310 and §30-2-320

(a) collect a Social Security Number or any portion of it containing six digits or more from an individual unless authorized by law to do so, or unless the collection of the Social Security Number is otherwise imperative for the performance of that Unit's duties and responsibilities, as prescribed by law or formal College policy. Social Security Numbers collected by a College Unit must be relevant to the purpose for which collected and must not be collected until and unless the need for Social Security Numbers has been clearly documented and approved (See Section 3.1.1);

(b) fail, when collecting a Social Security Number or portion of it containing six digits or more from an individual, to segregate that number on a separate page from the rest of the record, or as otherwise appropriate, so that the Social Security Number may be easily redacted pursuant to a public records request;

(c) fail, when collecting a Social Security Number or any portion of it containing six digits or more from an individual, to provide, at the time of or before the actual collection of the Social Security Number by that College Unit, upon request of the individual, a statement of the purpose or purposes for which the Social Security Number is being collected and the intended uses of the Number (see Appendix B and Section 3.5(a));

(d) use the Social Security Number or a portion of it containing six digits or more for any purpose other than the purpose stated for its collection;

(e) intentionally communicate or otherwise make available to the general public an individual's Social Security Number or a portion of it containing six digits or more or other Personal Identifying Information, except as otherwise allowed by law or these Policies and Procedures;

(f) intentionally print or imbed an individual's Social Security Number or a portion of it containing six digits or more on any card required for the individual to access College services;

(g) require an individual to transmit the individual's Social Security Number or a portion of it containing six digits or more over the Internet, unless the connection is secure or the social security number is encrypted;

(h) require an individual to use the individual's Social Security Number or a portion of it containing six digits or more to access an Internet web site, unless a password or unique personal identification number or other authentication device is also required to access the Internet web site;

(i) print an individual's Social Security Number or a portion of it containing six digits or more on materials that are mailed to the individual, unless state or federal law requires the social security number be on the mailed document; or

(j) require an individual to disclose her/his Social Security Number as a condition for receiving any College service or benefit unless such disclosure is required by law or this Policy.

**3.1.1** Procedure. Attached to this Policy and Procedure and marked as Appendix C is a specific listing of the approved Uses of Social Security Numbers. Appendix D is a *Social Security Number User Justification Form* that must be completed and approved by the Policy Committee prior to the collection and use of Social Security Numbers. Unless otherwise requested by the College Privacy Committee and approved by the General Counsel, the provisions of the previous sentence dealing with the use of *Social Security Number User Justification Form* shall not apply to data collection activities commenced prior to August 1, 2009.

**3.2** Exemption. A College Unit that collects and uses Social Security Numbers or other Personal Identifying Information as part of the maintenance and reporting of

employment records or the administration or provision of employee benefits programs is exempt from the prohibitions in section 3.1. Such a College Unit, however, shall adopt its own internal operating procedures that implement these prohibitions to the maximum extent practicable consistent with its mission and responsibilities.

**3.3**     Release of Social Security Numbers. Social Security Numbers and identifying information may be disclosed by the College:

- (a) to another governmental entity or its agents, employees, or contractors, if disclosure is necessary for the receiving entity to perform its duties and responsibilities, including a debt collected pursuant to the Setoff Debt Collection Act, S.C. Code Ann. Section 12-56-10, and the Governmental Enterprise Accounts Receivable Collections program, S.C. Code Ann. Section 12-4-580. The receiving governmental entity and its agents, employees, and contractors shall maintain the confidential and exempt status of those numbers;
- (b) pursuant to a court order, warrant, or subpoena;
- (c) for public health purposes;
- (d) on a document filed in the official records of the county;
- (e) for employment verification or in the course of administration or provision of employee benefit programs, claims, and procedures related to employment including, but not limited to, termination from employment, retirement from employment, injuries suffered during the course of employment, and other such claims, benefits, and procedures;<sup>32</sup> and
- (f) as otherwise specifically allowed by law.

**3.4**     Physical Security of Social Security Numbers. College personnel shall not --

- (a) collect, store or transmit Social Security Numbers as data elements to external entities until a business requirements submitted and approved in accordance with Section 3.1.1 (see also Appendix D);
- (b) provide access to servers housing databases to College records containing Social Security Numbers data or other Personal Information unless the host has a firewall and other technical security measures as deemed appropriate by the Office of Information Technology; or
- (c) except as provided in Section 10.0 of this Policy and Procedure, store Social Security Number data or other Confidential Information on removable or transportable media (such as paper forms, reports, cassettes, CDs, and USB/flash drives, laptops, mobile storage devices) or personal computers (such as PDAs and home computers).

**3.5**     Notice and Retention.

- (a) When the collection of Social Security Numbers is required by law or permitted by College Policy, the College Operating Unit collecting the information shall provide the individual with a copy of, or electronic access/reference to this Policy and Procedure. Upon request, the Unit shall inform the individual whether the disclosure is mandatory or voluntary, the statutory or other authority under which the College is soliciting the number, and what uses will be made of the number. A subsequent request for production

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<sup>32</sup> Subsections (a) through (e) found in S.C. Code Ann. § 30-2-320.

of a Social Security Number for verification purposes dealing with that same usage does not require the provision of another notice. Except for good cause that is documented in the appropriate file, the notice required under this subsection (a), if requested, shall be in writing (see Appendix B).

(b) Systems of records containing Social Security Numbers or other Personal Information shall be maintained for such periods of time as may be required under the College's *Records Retention Policy* <http://recordsretention.cofc.edu/> except that the General Counsel may extend such time periods with respect to certain records as may be required to comply with court orders or rules, lawfully issued subpoenas or other compulsory process, or to otherwise mitigate legal risks to the College.

#### **4. REQUESTS FOR EMPLOYEE RECORDS UNDER THE FREEDOM OF INFORMATION ACT<sup>33</sup>**

##### **4.1 Generally.**

(a) In response to requests for information from Employee Records, the College may provide an employee's name, date of employment, title, sex, and race. The determination to disclose other types of information will be made on a case-by-case basis. To the extent practicable, the College shall inform the employee that a request has been made regarding that employee.

##### **4.2 Salary Information.**

Requests for salary information will be answered in accordance with the *Freedom of Information Act*.

##### **4.3 Inquires by Prospective Employers.<sup>34</sup>**

In responding to requests for information concerning current or former employees by prospective employers, the College may provide information as follows:

- (a) when responding to oral requests for information, an employee's or former employee's dates of employment, pay level, and wage history;
- (b) when responding to written requests, the following information, to which an employee or former employee may have access:
  - (1) Written employee evaluations;
  - (2) Official human resources notices that formally record the reasons for separation;
  - (3) Whether the employee was voluntarily or involuntarily released from service and the reason for the separation; and
  - (4) Information about job performance.
- (c) No one shall knowingly or recklessly release or disclose false information.

##### **4.4 Job Selection Information --** The College may, but is not required to, exempt from disclosure all materials, regardless of form, gathered by the College during a search to fill an employment position, except that materials relating to not fewer than the final three applicants under consideration for a position must be made available for public inspection and copying. In addition to making available for public inspection and copying the materials described in this Section 4.4, the College shall disclose, upon request, the number of applicants considered for a position. For the purpose of this section, materials

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<sup>33</sup>Implementation of this section will be in accord with the provisions of S.C. Code Ann. §41-1-65 and the *Freedom of Information Act* S.C. Code Ann. §30-4-10 *et seq.*

<sup>34</sup> See S.C. Regs. Ann. 19-720.03(B)

relating to not fewer than the final three applicants, do not include an applicant's income tax returns, medical records, Social Security Number, or information otherwise exempt from disclosure by the *Freedom of Information Act*.<sup>35</sup>

## 5. EDUCATION RECORDS

Policies and procedures dealing with the disclosure of education records shall be in accord with the policies of the College Registrar dealing with the implementation of the Federal *Family Educational Rights and Privacy Act* (20 U.S.C. § 1232g). Those policies and procedures can be found at: <http://registrar.cofc.edu/ferpa/index.php>. Interpretations of the statute and the controlling regulations shall be made by the Office of Legal Affairs, after consultation with the Office of the Registrar, or the Provost, as may be appropriate under the circumstances.

## 6. “MEDICAL RECORD” or “HEALTH INFORMATION”

- 6.1** Disclosure. Medical Records of employees and students may only be released or shared in accordance with the provisions of the *South Carolina Physicians' Patient Records Act* (S.C. Code Ann. § 44-115-10 et seq.), the *Federal Family Educational Rights and Privacy Act*, and such other provisions of state or federal law as may be applicable.
- 6.2** Interpretations. The *South Carolina Physicians' Patient Records Act* (S.C. Code Ann. § 44-115-10 et seq.) states in part:
- Except as otherwise provided by law, a physician shall not honor a request for the release of copies of medical records without the receipt of express written consent of the patient or person authorized by law to act on behalf of the patient. (§ 44-115-40) (emphasis supplied)*
- For the purposes of this Policy and Procedure, the College will afford any licensed health care provider within the employ of the College the same protection afforded a “physician” under the above cited statute. The term “Except as otherwise provided by law” shall be subject to interpretation by the College’s General Counsel.
- 6.3** Health Insurance Portability and Accountability Act of 1996 (“HIPAA”). While neither the College nor any Unit of the College is currently subject to HIPAA, the College may elect, in the exercise of its discretion, to utilize such forms dealing with the disclosure or release of Medical Records as may be compliant with HIPAA.

## 7. DISPOSAL OF INFORMATION TECHNOLOGY RESOURCES CONTAINING PROTECTED INFORMATION<sup>36</sup>

- 7.1** Hardware and Storage Media. Before a College Unit may transfer or dispose of information technology hardware or storage media, all Protected Information must be removed and the hardware and storage media must be sanitized in accordance with the standards and policies adopted by the Chief Information Officer (“CIO”). The CIO shall verify that all Protected Information is removed and the information technology hardware and storage media are sanitized in accordance with those standards and policies before the transfer or disposal occurs.
- 7.2** Records. When a College Unit disposes of a record that contains Protected Information the Unit shall modify, by shredding, erasing, or other means, the Protected Information to make it unreadable or undecipherable. The College Unit is considered to comply with this

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<sup>35</sup> S.C. Code Regs. §19-703.05

<sup>36</sup> S.C. Code Ann. §30-2-310

requirement if it uses a College retained contractor who is engaged by the College and who is in the business of disposing of such records.

## **8. ETHICS**

8.1 Self Dealing. An employee of the College may not use or disclose Protected Information gained in the course of or by reason of that person's official responsibilities in a way that would affect an economic interest held by that person, a member of that person's immediate family, or an individual or business with whom that person is associated.

8.2 Misuse of Records. An employee of the College may not willfully examine, or aid and abet in the willful examination of a workers' compensation record, a record in connection with health or medical treatment, social services records, Employee Record, Education Record, or other records of an individual in the possession of or within the access of the College if the purpose of the examination is improper or unlawful.

## **9. RESPONSIBILITIES**

9.1 Passwords. Passwords help protect against misuse of data systems and networks by restricting the use of those systems and networks to authorized users. Each authorized user of such a system may be assigned or may be asked to develop a unique password that is to be protected by that individual and not shared with others, is difficult to determine, is changed on a regular basis, and is deleted when no longer authorized.

9.2 Security. Individual users are responsible for ensuring that others do not use their system privileges. In particular, users must take great care in protecting their usernames and passwords from eavesdropping, loss or careless misplacement. Passwords are never to be 'loaned.' Individual users will be held responsible for any security violations associated with their username or passwords.

9.3 Access Policies of Data Systems. Each user permitted to access a system containing Protected Information shall be made aware of the access policy for that system. Management will provide this information to the employee when first granting access and make the employee aware of the auditing capability in place to verify compliance.

9.4 Collection of Protected Information. As Protected Information is developed or compiled, the individual(s) responsible for the development or collection of the data are responsible for assuring that storage and access of the data is appropriately managed.

9.5 Audit of Systems Containing Protected Information. Information Technology operations staff are responsible for reviewing the logs and identifying potential security violations. The IT operations staff is responsible for establishing the security and access control mechanisms (such as usernames, passwords, logging protocols) and may be held accountable for any security breaches that arise from improper configuration of these mechanisms. If the application is housed outside of IT, the application administrator must be in a position to fulfill these requirements and document the same in writing.

## **10. PROTECTED INFORMATION STORED ON COMPUTING DEVICES<sup>37</sup>**

10.1 Generally. Protected Information that resides on a College user's computer or a portable computer or portable storage device must be secure at all times. The theft or loss of a portable

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<sup>37</sup> S.C. Code Ann. § 30-2-310

computer or portable storage device must not put Protected Information at risk of unauthorized disclosure. In addition, Protected Information shall not be maintained at all, if to do so would violate the College's records retention policy dealing with the length of time such records should be maintained (see <http://recordsretention.cofc.edu/>).

10.2 Consultation with IT. Members of the College community who have a legitimate business or educational need to take Protected Information off campus in the form of a portable electronic device shall consult with the College Chief Information Officer or his/her designee for the nature and type of protection that shall be afforded such Information.

## **11. USE OF INFORMATION TECHNOLOGY SYSTEMS FOR ILLEGAL PURPOSES**

The College does not randomly monitor the content of personal e-mails, downloads, or other on-line communications or data transmissions that pass through, are resident on, or that otherwise use the College's IT resources. The College, however, reserves the right to examine its computer records, or to monitor activities of individual computer users of the College IT system, if it has a reasonable belief that such action is needed to: (a) protect the integrity or security of the computing resources; (b) protect the College from incurring liability; (c) investigate unusual or excessive activity typically associated with illegal or illicit activity; (c) investigate reasonably suspected violations of law or College policy; or (d) comply with law or compulsory legal process (such as a lawfully issued subpoena). All such actions must be reviewed and pre-approved by the Senior Vice President of Legal Affairs who shall consult with the President or the appropriate Executive Vice President, as the circumstances may warrant.

## **12. INTERNET AND EMAIL ACCESS**

12.1 Vulnerability of Systems; Transmissions. Protected Information shall not be saved on any computer directly accessible from the Internet or from "open" portions of College's internal network unless a user must first be duly authorized to access such open portions. Users should clearly understand that many common systems, such as normal email, cannot be considered a secure way to transport confidential information. If it is necessary to transmit Protected Information electronically to a point external to the College, prior consultation should take place with the Office of the CIO.

12.2 Web Based Surveys and Other Data Collection Tools. Data collection tools, such as web based surveys that request Confidential Information, must ensure that responses cannot be accessed by unauthorized persons and that Personal Information is not improperly disclosed or shared. If a College vendor is involved in conducting the survey or analyzing results that include Confidential Information that can be linked to individuals, a contract must be in place that protects the Protected Information.

## **13. SECURITY BREACHES**

Every member of the College community who reasonably believes that a Security Breach has occurred is under an affirmative obligation to report that Breach as soon as practicable to the Office of the CIO and the Office of Legal Affairs. The Security Breach shall be assigned a preliminary level of severity appropriate to the potential of the Breach to result in identity theft, invasions of privacy, and/or economic or other harm to the College. The CIO shall consult with the Senior Vice President of Legal Affairs and privacy Committee regarding all such matters.

## **14. COMPLIANCE**

14.1 Consequences for Violations. All individuals accessing Protected Information are required to comply with federal and state laws and College policies and procedures regarding such Information. Any College employee or student who engages in the unauthorized use,



disclosure, alteration, or destruction of data in violation of this Policy and Procedure will be subject to appropriate disciplinary action, including possible dismissal and/or legal action. Other persons who may violate this Policy and Procedure, such as a College vendor, may be barred from College property and any further business dealings with the College, as well as, appropriate legal action. The College reserves the right to require anyone having access to Protected Information to first execute a confidentiality agreement approved by the Office of Legal Affairs as a condition for having access to such Information.

14.2 Responsible Office. The Office of the CIO shall be responsible for monitoring compliance with this Policy and Procedure and for reporting violations to the appropriate Executive Vice President and to the Office of the Legal Affairs. The General Counsel shall be responsible for determining if there is reason to believe that any law, rule, or regulation may have been violated.

## 15. COMMITTEES

### 15.1 Privacy Committee.

#### (a) Privacy Committee Establishment and Purpose.

There is hereby established a College of Charleston Privacy Committee that shall act to: (1) review and keep current with federal, state and local laws and regulations concerning privacy and information stewardship; (2) review campus-wide information collection, storage, management, and dissemination methods and practices to ensure compliance with such laws and regulations; (3) recommend policy and procedures dealing with data stewardship and the responsibilities of data stewards; (4) make recommendations on proposals to collect and use Social Security Numbers (see Section 3.1.1 and Appendix D); (5) investigate and take appropriate actions with respect to security breaches and (6) assess overall compliance with this Policy and Procedure, as it may from time to time be modified, and make such recommendations for further modifications as may be appropriate.

#### (b) Privacy Committee Membership and Meetings.

Unless otherwise indicated in this subsection (b), the Privacy Committee shall be comprised of the following or their designees: Executive Vice President for Business Affairs, the Provost, Executive Vice President Advancement/Development, the Speaker of the Faculty, the President of the Student Government Association and, on a non-delegable basis, the Senior Vice President for Technology/CIO, Dean of Students, Director for Human Resources, Associate Vice President of Institutional Research, and the Internal Auditor. Legal advice to the Committee shall be provided by the Office of Legal Affairs. The committee will meet, and report on its meeting to the Executive Team, at least 4 times per academic year and at such other times as may be required to fulfill its purpose. From time to time the President shall appoint a Chair of the Committee.

### 15.2 Information Security Committee.

#### (a) Information Security Committee Establishment and Purpose. There is hereby established a College of Charleston Information Security Committee that shall report to the Privacy Committee. The Information Security Committee shall act as both an oversight and an implementation Committee with respect to the

assessment, investigation and implementation of the technical measures needed to provide for system security and the security of Protected Information. This Committee shall ensure that such technical measures are taken as may be necessary or appropriate to implement and maintain this Policy and Procedure. Among other things, the Committee shall: (1) develop procedures, guidelines, and best practices training and awareness related to the technology infrastructure of the College to ensure the responsible collection, storage, use and safekeeping of Protected Information by the College community in accordance with this Policy and Procedure; and (2) upon consultation with the Chair of the Privacy Committee and the General Counsel, take such actions in response to Security Breaches, including audits and investigations, as may be appropriate under the circumstances.

- (b) Information Security Committee Membership and Meetings. The Information Security Committee shall be chaired by the Senior Vice President for Technology/CIO and shall be comprised of representatives from the following: (1) Data Stewards; (2) Office of Institutional Research; (3) Marketing and Communications; (4) Director, Information Services; (5) Director, Programming and Network Services; (6) Director, Infrastructure Services; and (7) such other Information Technology staff as may be determined by the Senior Vice President for Technology/CIO. Legal advice to the Committee shall be provided by the Office of Legal Affairs. The Committee will meet at least 4 times per academic year and at such other times as may be required to fulfill its purpose. The Information Security Committee shall be responsive to the inquires and requests of the Privacy Committee and shall report on its activities to the Privacy Committee at least once a calendar quarter and at such other times as may be requested by the Chair of the Privacy Committee.

15.3 Limitation on Authority.

The information systems that may be reviewed by the Committees established under this Section 15.0 shall include, but not be limited to, those systems containing records on promotion and tenure, post tenure review, student conduct affairs, employee and student discipline, health and counseling services, research, advancement, employees, students, vendors, business transactions, and such other matters and records as the committees may deem appropriate, provided that nothing contained in this section shall be deemed to authorize any Committee member to have access to Protected Information that s/he would not otherwise have access to under other provisions of this Policy and Procedure.

## 16. DISTRIBUTION

All College managers having access to Protected Information, or having supervision or responsibility for individuals having access to Protected Information, are responsible for disseminating this Policy and Procedure to such persons. This Policy and Procedure shall be published on the College's web site.

## 17. AMENDMENTS

This Privacy Policy and Procedure may be amended at any time in accordance with the Colleges *Campus Wide Policy Making Procedures*.

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**PRIVACY POLICY APPENDIX A**  
**NOTICE REQUIRED BY SOUTH CAROLINA ANN. CODE 30-2-40(B)<sup>38</sup>**

**Suggested Format of Notice:**

Please be advised that part or all of the information you are being requested to provide the College is considered “Personal Information” because it can be used to identify you or describe you. Some of this information may be subject to public scrutiny and release under the South Carolina *Freedom of Information Act* (S.C. Code Ann. §30-4-10 *et seq.*). However, in the absence of a court order or other legal compulsory process the College will not publicly release information of a personal nature when the public disclosure would constitute an unreasonable invasion of your personal privacy or when the information requested is otherwise exempt from mandatory disclosure under the *Freedom of Information Act* (see S.C. Code Ann. § 30-4-40).

Further questions regarding the College Privacy Policy may be directed to the College’s General Counsel.

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<sup>38</sup> The statute reads as follows:

§ 30-2-40. Display of privacy policy on web site; access to personal information disclosure; criminal justice and judicial agency exception.

(A) Any state agency, board, commission, institution, department, or other state entity which hosts, supports, or provides a link to page or site accessible through the world wide web must clearly display its privacy policy and the name and telephone number of the agency, board, commission, institution, department, or other state entity person responsible for administration of the policy.

(B) Where personal information is authorized to be collected by an entity covered by this section, the entity must at the time of collection advise the citizen to whom the information pertains that the information is subject to public scrutiny or release.

(C) Subsection (B) does not apply to criminal justice or judicial agencies, or both.

**PRIVACY POLICY APPENDIX B**

**STATEMENT OF PURPOSE FOR THE COLLECTION OF SOCIAL SECURITY NUMBERS<sup>39</sup>**

**Suggested Format of Response Upon Request:**

The College is collecting your Social Security Number for the following purpose or purposes<sup>40</sup>:

- ☐ **Enrollment:** \_\_\_\_\_  
\_\_\_\_\_
- ☐ **Employment:** \_\_\_\_\_
- ☐ **Employee Benefits:** \_\_\_\_\_  
\_\_\_\_\_
- ☐ **Payment for Personal or Professional Services; Other Disbursements:** \_\_\_\_\_  
\_\_\_\_\_
- ☐ **Insurance Providers:** \_\_\_\_\_
- ☐ **Third Party Sponsors of Student Aid:** \_\_\_\_\_
- ☐ **Credit Card Information:** \_\_\_\_\_  
\_\_\_\_\_
- ☐ **Public Safety:** \_\_\_\_\_
- ☐ **Otherwise Required By Law:** \_\_\_\_\_

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<sup>39</sup> South Carolina law provides in relevant part:

§ 30-2-310. Collection of and maintenance and disposition of records containing social security numbers by public agencies.

(A)(1) Except as provided in *Sections 30-2-320 and 30-2-330* of this article, a public body, as defined in *Section 30-1-10(B)*, may not:

(a) ...

(b) ...

(c) fail, when collecting a social security number or any portion of it containing six digits or more from an individual, to provide, at the time of or before the actual collection of the social security number by that public body, upon request of the individual, a statement of the purpose or purposes for which the social security number is being collected and used;

<sup>40</sup> See Appendix C for a fuller statement of permissible purposes and summarize the applicable purpose in the space provided for in this form.

## **PRIVACY POLICY APPENDIX C**

### **APPROVED USES OF SOCIAL SECURITY NUMBERS AND OTHER PERSONAL INFORMATION**

The primary approved uses and the reasons for collecting and maintaining Social Security Numbers (“SSNs”) and other Personal Information by of for the College of Charleston include, but are not limited to, the following:

#### **Enrollment:**

Those wishing to enroll in academic offerings at the College, both credit and non-credit, may be required to provide a SSN to determine lawful presence in the United States. With respect to student employment, IRS regulations require the College to request a SSN as a Taxpayer ID number for use in tax reporting. In addition, any student applying for financial aid may be required to provide a SSN to the College. Historic records may retain a student’s SSN if, for example, the SSN was previously used as the primary identifier for the person who is the subject of that record. However, to the extent practicable, the release of such a record to other than the subject should be preceded by an inquiry with the subject if he/she would prefer if the College redact the SSN from the record.

#### **Employment:**

A SSN must be provided on Form I-9 (Employment Eligibility Verification) in accordance with the Immigration Reform and Control Act of 1986 (IRCA). SSN’s may also be collected to verify lawful presence in the United States through E-Verify and other acceptable verification sources. Finalist for employment may also be requested to provide a SSN pursuant to the College’s Background Checks Policy. All persons employed by the College must also provide a SSN as the taxpayer ID number. Providing a valid SSN is a condition of employment.

**Employee Benefits:** If required by law or a benefits provider, the SSNs of the employee and the employee’s dependents/beneficiaries may be collected and provided to the service provider.

**Payment for Personal or Professional Services; Other Disbursements:** Any person providing services to the College as a contractor, invited speaker or research subject for which payment will be made, may be required to provide a SSN as the taxpayer ID number. These taxpayer ID numbers may be stored in the accounting system as part of the vendor record. In addition, certain other disbursements from the College may require reporting to the Internal Revenue Service. In such an event, these disbursements may be preceded by a request for the SSN or other taxpayer ID number.

**Planned Giving Donors:** Donors to the College participating in planned giving programs must provide a SSN as the taxpayer ID.

**Insurance Providers:** SSNs continue to be the patient identifier for many health care providers. To enable payment of medical bills, and to the extent allowed by law, the SSN of the patient may be shared with the insurance company providing health coverage.

**Third-Party Sponsors of Student Aid:** Various third-party sponsors of student aid, including several state agencies, require the submission of SSNs for those students for which aid is being provided. In order for the sponsor to make payment to the College, a SSN may be requested for proper verification.

**Credit Card Information:** When the College has been paid by credit or debit card, or a declining balance card, the College may maintain the card numbers and related information for a period of time, in accordance with its records retention policy, after the transaction has occurred.

**Student Health Services:** SSN's or other personal identifying information may be used, as appropriate, as a patient identifier for referrals and consultation with outside medical providers and for communication with insurance companies.

**Public Safety:** Law enforcement personnel may collect or use SSN data to serve a subpoena, conduct an investigation, to make a report, or to make an arrest, as permitted by applicable provisions of state and federal law, rules or regulations. Additionally, Campus Police maintain copies of fingerprint cards for Public Safety employees and others that may contain SSN data and other Personal Information.

**Otherwise Required By Law:** As determined by the General Counsel, Personal Information shall be collected, used and maintained as directed by court order, subpoena or other compulsory legal process, or as otherwise required to protect the legal interests of the College and the College community.

SSN USAGE JUSTIFICATION FORM<sup>41</sup>

Requestor Name \_\_\_\_\_ Date \_\_\_\_\_  
 Department \_\_\_\_\_ Phone \_\_\_\_\_  
 Address \_\_\_\_\_ E-Mail \_\_\_\_\_

Briefly describe why and under what authority you believe SSN's must be collected.			
Briefly describe the process you intend to use for the collection of the SSN and the notice you intend to provide to the providers of their SSN's.			
Describe how the SSN will be stored including the types of media used for both primary and backup storage and what security measures will be employed.			
Will the data be stored on any portable equipment or media? If so, please describe how this will be used and what type of security measures will be used.			
Will the SSN be used as a primary identifier?			
List the approximate number of individuals requiring access to the SSN data you retain.	Faculty	Staff	Students
Describe the method(s) used to access the SSN and what controls will be implemented to manage the access. Who will be the Steward for this information?			

\_\_\_\_\_  
 Department Head/Manager Signature

\_\_\_\_\_  
 Date

\_\_\_\_\_  
 Dean (If Applicable) Signature

\_\_\_\_\_  
 Date

**Recommendation of the Privacy Committee:**

\_\_\_\_\_  
 \_\_\_\_\_

\_\_\_\_\_  
 Date

**Approval:**

\_\_\_\_\_  
 Executive Vice President Signature

\_\_\_\_\_  
 Date

<sup>41</sup> To be filed with and maintained by the Division/Department Head.

## Appendix F. Information on State and Federal Alcohol and Drug Laws

### SOUTH CAROLINA ALCOHOLIC BEVERAGE LAWS

NOTE: Likely actual fines (including court costs and administrative fees) are provided. The information provided below is produced by the Department of Alcohol and Other Drug Abuse Services online at: <http://www.daodas.state.sc.us/>

**Purchasing or possessing beer or wine if you are under the age of 21 (In instances where beer or wine is discovered in the presence of minors [e.g., at a party], but no one is holding the beverages and no one claims ownership, law enforcement in some jurisdictions have charged all those present with “constructive possession,” carrying the same penalties as for actual purchase or possession.)**

A fine of \$265 to \$470 and/or imprisonment for up to 30 days for the first offense. Mandatory completion of alcohol prevention intervention/education program.

*S.C. Code Ann. Sections 63-19-2440*

**Lying or providing false information about your age to purchase beer, wine, or liquor**

A fine of \$262.50 to \$470 and/or imprisonment for up to 30 days. Lose your driver’s license for 120 days for a first offense and one year for a second or subsequent offense.

*S.C. Code Ann. Sections 61-4-60, 20-7-8925, 56-1-746*

**Lending a driver’s license or personal identification card to any other person**

A fine of \$237.50 to \$470 or imprisonment for up to 30 days

A fine up to \$1,090 or imprisonment for up to six months

*S.C. Code Ann. Sections 56-1-510(2), 56-1-746*

**Providing false information on an application to obtain a driver’s license or personal identification card**

A fine of up to \$237.50 to \$500 or imprisonment for up to 30 days

A fine of up to \$500 [*\$1,090*] or imprisonment for up to six months

*S.C. Code Ann. Sections 56-1-510(5), 56-1-746*

**Altering a driver’s license**

A fine of up to \$2,500 [*\$5,250*] or imprisonment for up to six months – or both

*S.C. Code Ann. Sections 56-1-515(1), 56-1-746*

**Selling or issuing a false driver’s license**

A fine of up to \$5,250 or imprisonment for up to six months – or both

*S.C. Code Ann. Sections 56-1-515(1), 56-1-746*

**Using someone else’s driver’s license or personal identification card**

A fine of up to \$100 or imprisonment for up to 30 days

*S.C. Code Ann. Sections 56-1-515(2), (4), 56-1-746*

**Using an altered driver’s license or identification card containing false information**

A fine of up to \$100 or imprisonment for up to 30 days

*S.C. Code Ann. Sections 56-1-515(2), (4), 56-1-746*

**Possessing an altered or invalid driver’s license or personal identification card**

A fine up to \$470 or imprisonment for up to 30 days for the first offense, and a fine of up to \$1,090 or imprisonment for up to six months for a second or subsequent offense

*S.C. Code Ann. Sections 56-1-510(1), 56-1-746*

In addition to the penalties outlined, individuals convicted of the following offenses will also have their driver’s licenses suspended for 120 days for a first offense and one year for a second or subsequent offense:

- Possessing, consuming, purchasing or attempting to purchase beer, wine, or liquor under the age of 21
- Lying or providing false information about your age to purchase beer, wine, or liquor
- Lending a driver’s license or personal identification card to any other person
- Providing false information on an application to obtain a driver’s license or personal identification card
- Altering a driver’s license • Selling or issuing a false driver’s license
- Using someone else’s driver’s license or personal identification card
- Using an altered driver’s license or identification card containing false information.



**Violating any alcohol-related laws if you are a student**

Additional penalties (besides those cited previously) include:

- ineligibility for state-funded grants and/or scholarships (e.g., the LIFE Scholarship) for one year upon second conviction; and
- ineligibility for the refundable state individual income tax credit.

S.C. Code Ann. Sections 59-149-90, 59-149-20, 59-113-20, 59-142-10, 12-6-3385

**Providing Alcohol to Underage Youth and Allowing Underage Drinking**

**Giving beer, wine, or liquor to anyone who is under the age of 21, including serving anyone in your home except your child or spouse**

A fine of \$470 to \$677.50 and/or imprisonment for up to 30 days for the first offense.

A fine of \$885 to \$1,092 and/or imprisonment for up to 30 days for a second or subsequent offense.

S.C. Code Ann. Sections 61-4-90, 61-6-4070

**Selling beer, wine, or liquor to anyone under the age of 21**

A fine of \$200 to \$300 and/or imprisonment for up to 30 days for the first offense

A fine of \$400 to \$500 and/or imprisonment for up to 30 days for a second or subsequent offense. Mandatory completion of an approved merchant education program.

S.C. Code Ann. Sections 61-6-4080, 61-4-50

**Purchasing beer, wine, or liquor for someone who cannot lawfully buy these beverages**

A fine up to \$677.50 and/or imprisonment for up to 30 days for the first offense

A fine up to \$1,090 and/or imprisonment for up to 30 days for a second or subsequent offense S.C. Code Ann. Sections 61-4-80, 61-6-4075

**Allowing underage drinking to occur in a hotel/motel room you have rented**

A fine of up to \$500 or imprisonment for up to 30 days S.C. Code Ann. Section 45-2-40 (C)

**OFFENSES RELATED TO ALCOHOL USE AMONG THE GENERAL POPULATION**

*NOTE: Likely actual fines (including court costs and administrative fees).*

**OPEN CONTAINERS**

**Having an open container of beer or wine in a moving vehicle of any kind, except in the trunk or luggage compartment**

A fine of up to \$260.50 or imprisonment for up to 30 days S.C. Code Ann. Section 61-4-110

**Having an open container of liquor anywhere that is not allowed by state law. (Examples of approved locations include private residences, hotel/motel rooms, licensed establishments, etc.)**

A fine of up to \$262.50 or imprisonment for up to 30 days

S.C. Code Ann. Sections 61-6-2600, 61-6-4020, 61-6-4710

**UNDERAGE YOUTH AND DUI**

Suspension or denial of issuance of driver's license for six months or one year if you have been convicted of driving under the influence (DUI) or driving with a BAC of .02% or higher while under the age of 21, within the five years preceding the violation mandatory enrollment and completion of an Alcohol and Drug Safety Action Program (ADSAP) if license is suspended S.C. Code Ann. Section 56-1-286

**Driving a motor vehicle with a BAC of .02% or higher if you are under the age of 21**

Suspension of driver's license for three months. Suspension of driver's license for six months if you have had a DUI conviction within the past five years. Mandatory enrollment and completion of an ADSAP if license is suspended.

S.C. Code Ann. Section 56-1-286

**Operating a motor vehicle while under the influence of alcohol. If you have a BAC of .08% or higher, it will be inferred that you were driving while under the influence of alcohol. A BAC that is at least .05% but less than .10% may be considered with other evidence to determine guilt or innocence.**

A fine of up to \$400 and/or imprisonment from 48 hours to 30 days *and* suspension of driver's license for six months for a first offense. A fine of \$2,000 to \$5,000 and imprisonment not less than 5 days to one year *and* suspension of driver's license for one year for a second offense. A fine of \$3,800 to \$6,300 and imprisonment from 60 days to three years, *and* suspension of driver's license for two years for a third offense. Imprisonment from one to five years

and permanent revocation of driver's license for a fourth or subsequent offense. If the third offense occurs within five years of the first offense, the driver's license is suspended for four years. If the third or subsequent offense occurs within 10 years of the first offense, the vehicle used must be confiscated if the offender is the owner or a resident of the household of the owner. Mandatory enrollment and completion of an ADSAP if license is suspended. A third or subsequent offense is considered a felony offense. The name and address of any person whose license is suspended shall be released to the public.

S.C. Code Ann. Sections 56-5-2930, 56-5-2990, 56-5-2940, 56-5-3000, 56-5-6240, 56-5-2933

#### **Driving a motor vehicle with a BAC of .15% or higher**

Mandatory suspension of driver's license for 30 days. Suspension of driver's license for 60 days if you have had a prior DUI conviction within the past 10 years S.C. Code Ann. Sections 56-5-2950, 56-5-2951

#### **Refusing to submit to testing to determine your blood alcohol concentration (BAC) level if you are under the age of 21**

Suspension of driver's license for six months to one year. Suspension of driver's license for one year if you have had a prior DUI conviction within the past 5 years. S.C. Code Ann. Section 56-1-286 (F)

#### **Driving a vehicle while under the influence of alcohol or other drugs and causing great bodily injury to any other person**

Mandatory fine of \$5,100 to \$10,100 and imprisonment for 30 days to 15 years. This crime is considered a felony offense. S.C. Code Ann. Section 56-5-2945

#### **Driving a vehicle while under the influence of alcohol or other drugs and causing death to any other person**

Mandatory fine of \$10,100 to \$25,100 and imprisonment for one to 25 years. This crime is considered a felony offense. S.C. Code Ann. Section 56-5-2945

#### **Commission of a felony DUI offense**

Additional penalties (besides fines and imprisonment as identified above) include:

- ineligibility to vote until sentence is served (including probation and parole);
- possible denial of entry to the armed forces or restriction in regard to certain jobs within the armed forces;
- ineligibility to work for a federal law enforcement agency;
- possible denial of employment by federal or state agencies; and
- ineligibility to file to run for any office in the state or its political subdivisions until 15 years or more after the completion of sentence (including probation and parole).

S.C. Code Ann. Sections 7-5-170, 7-5-120, AETC 36-2002, AR-601-210 S.C. Const. Art. VI, §1, Art. III, §7

#### **NOTE:**

- All convictions are placed on a permanent criminal record. All alcohol offenses are misdemeanors except a felony DUI conviction.
- For underage drinking laws, alcohol offenses can be "stacked." In other words, a person **charged and convicted** of three separate offenses can receive all three fines or jail terms, not just the largest of the three.
- Persons convicted of first offense DUI:
  - Are required to show proof of financial responsibility to the Department of Highways and Public Transportation, usually in the form of a guarantee of high-risk insurance coverage, for three years.
  - Are required to complete an Alcohol and Drug Safety Action Program (ADSAP) before becoming eligible to apply to the Department of Highways and Public Transportation for driver's license reinstatement.
  - May be eligible for a provisional driver's license upon meeting requirements. \*All accidents resulting in injury or death of a person under age 21 as a result of DUI are investigated.

#### **PUBLIC DRINKING**

##### **Being grossly intoxicated on any highway or at any public place or public gathering**

A fine of up to \$100 or imprisonment for up to 30 days S.C. Code Ann. Section 16-17-530

**Consuming alcoholic liquor in a public conveyance**

A fine of up to \$100 or imprisonment for up to 30 days S.C. Code Ann. Section 61-6-4720

**SELLING OR POSSESSING KEGS****Selling a keg of beer without the proper tag or forms**

A fine of up to \$675 for the first offense and a fine of up to \$1,090 for a second or subsequent offense. S.C. Code Ann. Section 61-4-1920

**Possessing a keg of beer that does not have the proper tag**

A fine of up to \$1,090 and/or imprisonment for up to 30 days S.C. Code Ann. Section 61-4-1930

**Removing, altering, or obliterating the tag on a keg of beer**

A fine of up to \$1,090 and/or imprisonment for up to 30 days S.C. Code Ann. Section 61-4-1940

**BE AWARE THAT STATE ALCOHOL LAWS ARE SUBJECT TO CHANGE****INFORMATION ON SOUTH CAROLINA DRUG LAWS**

The following is a partial list of South Carolina's drug laws. For more information and a complete list of laws relating to offenses, please see Chapter 53, Title 44 of the South Carolina Code of Laws, as amended.

**MARIJUANA—HASHISH****Possession of 1 ounce or less of marijuana, or 10 grams or less of hashish**

- First offense: Not more than 30 days of imprisonment and/or a fine of not less than \$100 nor more than \$200; \$570 with court fees.
- Second or subsequent offense: Not more than one year and/or \$200 to \$1,000 (Section 44-53-370{d}{3})

**Manufacture, distribution, or possession with the intent to distribute**

- First offense: Not more than five years and/or not more than \$5,000
- Second offense: Not more than 10 years and/or not more than \$10,000
- Third or subsequent offense: Not less than five years nor more than 20 years and/or not more than \$20,000 (Section 44-53-370{b}{2})

**Trafficking (10 lbs. to 100 lbs. of marijuana)**

- First offense: Not less than one year nor more than 10 years and \$10,000
- Second offense: Not less than five years nor more than 20 years and \$15,000
- Third or subsequent offense: 25 years and \$25,000 (Section 44-53-370{e}{1}{a})

**Trafficking (100 lbs. to 2,000 lbs. of marijuana, or 100 to 1,000 marijuana plants regardless of weight)**

- 25 years and \$25,000 (Section 44-53-370{e}{1}{b})

**Trafficking (2,000 lbs. to 10,000 lbs. or more of marijuana, or 10,000 or more marijuana plants regardless of weight)**

- Not less than 25 years and \$50,000 (Section 44-53-370{e}{1}{c})

**LSD, COCAINE AND HERION****LSD Possession** • First offense: Not more than three years and/or not more than \$5,000

- Second offense: Not more than ten years nor more than \$7,500
- Third or subsequent offense: Not more than ten years and/or not more than \$12, 500 (Section 44-53-375{d}{1})

**Cocaine Possession (less than one gram)**

- First offense: Not more than three years and/or not more than \$5,000
- Second offense: Not more than ten years nor more than \$7,500
- Third or subsequent offense: Not more than ten years and/or not more than \$12, 500 (Section 44-53-375{d}{3})

**Manufacture, distribution, or possession with the intent to distribute cocaine (10 grains < 10 grams).**

- First offense: Not more than 15 years and/or not more than \$25,000
- Second offense: Not less than five years nor more than 30 years and/or not more than \$50,000 (Section 44-53-370 {d}{4})

**Trafficking cocaine (10 grams to 28 grams).**

- First offense: Not less than three years nor more than 10 years and \$25,000
- Second offense: Not less than five years nor more than 30 years and \$50,000 (Section 44-53-370{e}{2}{A})

**Manufacture, distribution, or possession with the intent to distribute heroin, opium, or morphine (2 grains < 4 grains).**

- First offense: Not less than 15 years and \$25,000
- Second or subsequent offense: 5-30 years and \$50,000 (Section 44-53-370{e}{3}{a})

**ANABOLIC STEROIDS**

**Possession of 10 or fewer dosage units without a valid prescription**

- First offense: Not more than six months and/or not more than \$1,000
- Second or subsequent offense: Not more than one year and/or not more than \$2,000 (Section 44-53-1530{2})

**Possession of 10 to 100 dosage units without a valid prescription**

- First offense: Not more than one year and/or not more than \$2,000
- Second or subsequent offense: Not more than two years and/or not more than \$3,000 (Section 44-53-1530{3})

**Possession of more than 100 dosage units without a valid prescription**

- First offense: Not more than five years and/or not more than \$5,000
- Second or subsequent offense: Not more than 10 years and/or not more than \$10,000 (Section 44-53-1530{4})

**SUSPENSION OF DRIVER'S LICENSE**

In addition to the above, the driver's license of any person convicted of a controlled substance violation involving hashish or marijuana must be suspended for a period of six months. The driver's license of any person convicted of any other controlled substance violation must be suspended for a period of one year. (Section 56-1-286{a})

**Possessing PRESCRIPTION DRUGS without a valid prescription is illegal.** For example, Adderall and Ritalin are prescription stimulants often prescribed for Attention Deficit Hyperactivity Disorder (ADHD). Both of these drugs are classified as Schedule II controlled substances, as are cocaine and heroin. Unlawful distribution of Adderall or Ritalin, which means either the sale or simply giving the drug to another person, is a felony carrying up to five years in prison. Additionally, if the offense occurs on or within a half-mile of the college campus, an additional crime of distribution in proximity to a school as been committed, which is a felony carrying a 10-year sentence. A person who has in their possession one of these drugs, without a valid prescription, is guilty of a misdemeanor carrying a penalty of up to two years in prison.

**MISCELLANEOUS STATE LAWS**

**Distribution of controlled substance within proximity of a school.** (Distance from school, public park, or playground, or college or university is a radius of one-half mile.) Fine is not more than \$10,000 and imprisonment to be less than 10 years. For crack cocaine, the fine is between \$10,000 and 15,000 and prison between 10 and 15 years. For purchase, the fine will not exceed \$1,000 and not exceed one year of prison. Any violation of this section is considered a separate offense. (Section 44-53-445)

**Illegal acts involving persons under 17-years-old.** Any use of persons under the age of 17 by persons over the age of 17 in the violation of Section 44-53-370 and 375, or the receipt of controlled substance from a person under 17 is considered a felony with punishment between 5 and 15 years. Any violation of this section is considered a separate offense. (Section 44-53-577)

**Illegal acts involving persons under 17 years old and controlled substances.** It is unlawful for any person at least 17 years old to knowingly use, hire, coerce, or employ a person under 17 years old to violate a controlled substance law. Violation of this section is a separate offense and punishment is imprisonment for not less than five years up to 15 years. (Section 44-53-577)

**Unlawful to advertise for sale, manufacture, possess, sell, or deliver, or to possess with intent to sell or deliver drug paraphernalia.** Any person convicted can be fined no more than \$500; a corporation can be fined up to \$50,000. (Section 44-53-391)

**Distribution of controlled substances to persons under 18-years- old.** Distribution of a narcotic drug, LSD, and crack cocaine is guilty of a felony and upon conviction must be imprisoned not more than 20 years or fined not more than \$30,000, or both, and the sentence may not be suspended and probation may not be granted. Distribution of any other controlled substance to a person under 18 is guilty of a misdemeanor, and upon conviction must be imprisoned not more than 10 years or fined not more than \$10,000 or both. (Section 44-53-440)

## **BE AWARE THAT STATE DRUG LAWS ARE SUBJECT TO CHANGE.**

### **INFORMATION ON FEDERAL DRUG LAWS**

The following is a partial list of federal drug laws and penalties. Penalties are set by sentencing guidelines in Federal Court. For more information and a complete list of the laws relating to drug offenses, please see Title 21 of the U.S. Code of Laws, as amended.

#### **Possession of a controlled substance without a valid prescription**

- First offense: Not more than one year and/or less than \$1,000
- Second offense: Not less than 15 days nor more than two years and not less than \$2,500
- Third or subsequent offense: Not less than 90 days nor more than three years and not less than \$5,000 (Statute - 21 U.S.C.A. Section 844{a})

#### **Possession of a mixture or substance which contains cocaine base**

- First offense: If the amount exceeds 5 grams, not less than five years nor more than 20 years and/or a fine of \$1,000
- Second offense: If the amount exceeds 3 grams, not less than five years nor more than 20 years and/or a fine of \$1,000
- Third offense: If the amount exceeds 1 gram, not less than five years nor more than 20 years and/or a fine of \$1,000 (Statute - 21 U.S.C.A. Section 844{a})

#### **Distribution of controlled substances to persons under the age of 21**

- First offense: Imprisonment (for not less than one year) and/or a fine, neither to exceed twice that authorized by 21 U.S.C.A. Section 841 (b)
- Second offense: Imprisonment (for not less than one year) and/or a fine, neither to exceed three times that authorized by 21 U.S.C.A. Section 841 (b) Statute 21 U.S.C.A. Section 859
- Third offense: Life imprisonment (Statute - 21 U.S.C.A. Section 841{b}{1}{A})

**Manufacture, distribution, or possession with intent to manufacture or distribute controlled substances in or on, or within 1,000 feet of the real property compromising a public or private elementary, vocational, secondary school, college, junior college, or university, or a playground, or within 100 feet of a public or private youth center, public swimming pool, or video arcade**

- First offense: Imprisonment (for not less than one year) and/or a fine, neither to exceed that authorized by 21 U.S.C.A. Section 841 (b)
- Second offense: Not less than three years nor more than life (or three times that authorized by an offense, whichever is greater) and/or a fine not to exceed three times that authorized by 21 U.S.C.A. Section 841 (b)
- Third offense: Life imprisonment (Statutes - 21 U.S.C.A. Section 860; and 21 U.S.C.A. Section 841 {b}{1}{a})

#### **Manufacture, distribution, or possession with intent to manufacture or distribute:**

- a) 1 kilogram or more of a mixture or substance containing a detectable amount of heroin;  
or
- b) 5 kilograms or more of a mixture or substance containing a detectable amount of cocaine;  
or
- c) 50 grams or more of a mixture or substance which contains cocaine base;  
or
- d) 100 grams or more of PCP or 1 kilogram or more or a mixture or substance containing a detectable amount of PCP;  
or
- e) 10 grams or more of a mixture or substance containing a detectable amount of LSD;  
or

f) 100 kilograms or more of a mixture or substance containing a detectable amount of marijuana, or 1,000 or more marijuana plants regardless of weight;

or

g) 100 grams or more of methamphetamine, or 1 kilogram or more of a mixture or substance containing a detectable amount of methamphetamine.

- First offense: Not less than 10 years nor more than life (if death or serious bodily harm results from the use of such substance, imprisonment shall be for not less than 20 years nor more 47 than life) and/or a fine not to exceed the greater of that authorized by Title 18 of the U.S. Code or \$4,000,000
- Second offense: Not less than 20 years nor more than life (if death or serious bodily harm results from the use of such substance, imprisonment shall be for life) and/or a fine not to exceed the greater of that authorized by Title 18 of the U.S. Code or \$8,000,000
- Third offense: Life imprisonment (Statute - 21 U.S.C.A. Section 841 {b} {1} {A})

**Manufacture, distribution, or possession with the intent to manufacture or distribute:**

a) 100 grams or more of a mixture or substance containing a detectable amount of heroin;

or

b) 500 grams or more of a mixture or substance containing a detectable amount of cocaine;

or

c) 5 grams or more of a mixture or substance which contains cocaine;

or

d) 10 grams or more of PCP or 100 grams or more of a mixture or substance containing a detectable amount of PCP;

or

e) 1 gram or more of a mixture or substance containing a detectable amount of LSD;

or

f) 100 kilograms or more of a mixture or substance containing a detectable amount or marijuana, or 100 or more marijuana plants regardless of weight;

or

g) 100 grams or more of methamphetamine, or 100 grams or more of a mixture or substance containing a detectable amount of methamphetamine

- First offense: Not less than five years nor more than 40 years (if death or serious bodily injury results from the use of such substance, imprisonment shall be for not less than 20 years or more than life) and/or a fine not to exceed the greater of that authorized by Title 18 of the U.S. Code or \$2,000,000
- Second or subsequent offenses: Not less than 10 years nor more than life (if death or serious bodily harm results from the use of such substance, imprisonment shall be for life) and/or a fine not to exceed the greater of twice that authorized by Title 18 of the U.S. Code or \$4,000,000 (Statute - 21 U.S.C.A. Section 841 {b} {1} {B})

**Manufacture, distribution, or possession with intent to manufacture or distribute:**

a) 50 kilograms or less of marijuana (except in the case of 50 or more marijuana plants regardless of weight); or b) 10 kilograms or less of hashish, or 1 kilogram or less of hashish

• First offense: Not more than five years and/or a fine not to exceed the greater of that authorized by Title 18 or \$250,000

• Second or subsequent offenses: Not more than 10 years and/or a fine not to exceed the greater of twice that authorized by Title 18 or \$500,000 (Statute - 21 U.S.C.A. Section 841 {b} {1} {D})

**Manufacture, distribution, or possession with the intent to manufacture or distribute any controlled substance listed in Schedule I or II** (e.g., LSD, heroin, opium, morphine) of 21 U.S.C.A. Section 812 (except as provided elsewhere):

- First offense: Not more than 20 years (if death or serious bodily injury results from the use of such substance, imprisonment shall be for not less than 20 years nor more than life) and/or a fine not to exceed the greater of that authorized by Title 18 of the U.S. Code or \$1,000
- Second or subsequent offenses: Not more than 30 years (if death or serious bodily injury results from the use of such substance, imprisonment shall be for life) and/or a fine not to exceed the greater of twice that authorized by Title 18 of the U.S. Code or \$2,000,000 (Statute - U.S.C.A. Section 841 {b} {1} {C})

**Manufacture, distribution, or possession with intent to manufacture or distribute any controlled substance listed in Schedule IV** of 21 U.S.C.A. Section 812:

- First offense: Not more than three years and/or a fine not to exceed the greater of that authorized by Title 18 of the U.S. Code or \$250,000
- Second or subsequent offenses: Not more than six years and/or a fine not to exceed the greater of twice that authorized by Title 18 of the U.S. Code or \$500,000 (Statute - 21 U.S.C.A. Section 841{b}{2})

**Manufacture, distribution, or possession with intent to manufacture or distribute a controlled substance listed in Schedule V of 21 U.S.C.A. Section 812:**

- First offense: Not more than one year and/or a fine not to exceed the greater of that authorized by Title 18 of the U.S. Code or \$100,000
- Second or subsequent offenses: Not more than two years and/or a fine not to exceed the greater of twice that authorized by Title 18 of the U.S. Code or \$200,000 (Statute - 21 U.S.C.A. Section 841{b}{3})

**BE AWARE THAT DRUG LAWS ARE SUBJECT TO CHANGE.**